Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

APPENDIX

VOLUME IV

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1973

No. 73-1462

MARK WHITE, ET AL.,
Appellants

V.

DIANA REGESTER, ET AL.,,
Appellees

MARK WHITE, ET AL.,
Appellants

V.

FRANK A. ESCALANTE, ET AL.,
Appellees

MARK WHITE, ET AL.,
Appellants

V.

JAMES GASKIN, ET AL.,
Appellees

MARK WHITE, JR., ET AL.,
Appellants

V.

WANDA L. CHAPMAN, ET AL.,
Appellees

Appeal from the United States District Court
for the Western District of Texas

FILED JANUARY 30, 1974

PROBABLE JURISDICTION NOTED MAY 28, 1974

Deposition and answers of APOLONEO MONTEMAYOR, who resides in Nueces County, Texas, taken herein by the counsel for the Plaintiff, before RONNIE VERNON, a Notary Public in and for Nueces County, Texas, on the 27th day of November, A.D., 1973, between the hours of 2:00 p.m. and 3:45 p.m., in the Commissioners Court Room, Nueces County Courthouse, Corpus Christi, Nueces County, Texas, in accordance with the following stipulations and agreements:

IT WAS AGREED by and between counsel for Plaintiff and Defendant in the above numbered and styled cause that all formalities, including issuance of notice, are waived specifically, and that the oral deposition of APOLONEO MONTEMAYOR, may be taken herein forthwith before RONNIE VERNON, a Notary Public in and for Nueces County, Texas, said deposition being taken with the same force and effect as though all requirements of the statutes and rules had been fully complied with.

IT WAS FURTHER AGREED that no objections need be made by any party at the time of taking said deposition; except objections as to the form of the question and leading questions or the responsiveness of the answer; but if and when said deposition, or any portion thereof is offered in evidence on the trial of this cause by any party hereto, it shall be subject to any

other legal objections, such objections to be made at the time of the tender, the same as though the witness were on the stand personally testifying.

IT WAS AGREED BY AND BETWEEN COUNSEL and the witness, that the signature of the witness hereto is waived.

IT WAS FURTHER AGREED that after said deposition has been returned into court in accordance with these stipulations and agreements, it will be treated by the parties hereto and may be used herein with the same force and effect as though all statutes and rules relating to the taking and returning into court of depositions had been fully complied with.

MR. KORBEL: For the purpose of the record, it should be noted that this is a stipulation concerning objections as to form and substance and notice of the deposition are waived. It should further be noted that the form and substance as to questions or matters which are brought out in the deposition should be brought out at this time, and when the deposition is offered in evidence, it will be subject to any objections made.

It that my understanding?

MS. LEVATINO: Right.

APOLONEO MONTEMAYOR,

having been first duly examined, cautioned and sworn upon his oath to tell the truth, the whole truth, and nothing but the truth, testified as follows:

E X A M I N A T I O N

BY MR. KORBEL:

Q Would you state your name and address for the Court, please.

A My name is Apoloneo Montemayor, 4633 Vestal Street.

Q Is that in Corpus Christi?

A Yes.

Q Is that within the Corpus Christi multi-member district?

A Yes.

Q Can you tell us your occupation?

A International Representative for the United Steel Workers of America, AF of L, CIO.

Q What specialty are you involved in?

A The civil rights department.

MR. KORBEL: Would you mark this, please.

(The above mentioned document was marked Plaintiff's Exhibit 1, Montemayor, for identification.)

Q I am going to show you what has been designated as Plaintiff's Exhibit 1, Montemayor, Nueces County, and ask you to identify it.

A That is my testimony in the matter of the Corpus Christi Independent School District case.

Q When was that taken?

A I believe it was two years ago in July.

Q All right, sir. I believe that is right. Were you sworn to tell the trust at that time?

A Yes.

Q You were under oath?

A Yes.

Q If I asked you the same questions you were asked in that case, would you answer the questions the same?

A Yes.

C And you have read through that and you are of the opinion it is correct?

A Yes.

MR. KORBEL: I will in evidence at this time Plaintiff's Exhibit 1.

MS. LEVATINO: No objection.

Q I want to focus your attention on the schools in Corpus Christi. Do you have any knowledge as to whether or not the schools are racially identifiable?

A Yes, the same as during the trial.

Q Can you describe how they were during the trial and how they are today?

A During the court proceedings, they named the schools within a corridor, which is the west side.

Q Maybe I can show you this map and you can identify it.

A Yes.

MR. KORBEL: Would you mark this?

(The above mentioned document was marked Plaintiff's Exhibit 2, Montemayor, for identification.)

Q I am going to show you Plaintiff's Exhibit 2, being a map, and a plastic overlay which is idenfied as Plaintiff's Exhibit 2a, Montemayor. Can you describe what this represents?

A It represents the testimony offered in federal court.

Q First of all, this is a map of Corpus Christi, the City of Corpus Christi?

A Yes.

Q And overlaid on that are the census boundaries or census traps?

A Yes.

Q Okay. Go ahead.

A And this in orange what was established as a corridor where the vast minority of Spanish-speaking people go to school. They were identified and are now identified as Mexican schools, with a percentage of Mexican-American population between 92 and 98 percent. The composition of Black in those schools vary from 4 to 5 1/2 percent and Anglos 1 to 2 percent, depending on

some schools. It is still the same way today.

Q Can you tell me generally on this map where the racially identifiable anglo schools would be located?

A That would be on the south side or from this street. I think it is Everhart.

What is this? Well, south of Weber. Percentage wise, it would be, or was, approximately the same as the corridor of Mexican-Americans.

Q It would be approximately the same as it was in the original --

A I say was. They may show some differences now because of a satellite school being transferred now, which is black. They closed this school here.

Q When you say here, you are referring to the lower right hand corner, which is around the channel?

A Yes.

Q Precincts 1 and 30 and these here?

A Yes. And 21.

Q This is considered to be a satellite zone?

A Yes, on the present integration plan. Solomon Coles Junior High School was closed and those people were offered, and in most cases took the transfers.

Q Would the majority of those people be Blacks?

A Yes.

Q So there has been some black-white integration of Corpus Christi?

A Yes. And some voluntary transfers of people that provide their own transportation, so the changes on the south side in some schools could be better because of this.

Q In any case, would you have an opinion as to the percentage of Anglos which attend these schools south of Weber Road?

A The percentage is the same. There is no transportation from the south to the west.

Q No free transportation?

A It is not offered and they have not asked for it. They would, if they asked for it, but they are not going to in most cases. There were some transfers from Peary Place into the first school.

Q Peary Place would be identified as Precinct Number what?

A It is not on the map. It is next to the Naval Air Station. It used to be for military personnel. It is about 40-60 but not totally military. They do not have the facilities there, so they attended our schools.

Q When you say our, do you mean the Corpus Christi Independent School District?

A Yes.

Q Now, we are referring to matters which all came up during the Corpus Christi school case, Cisneros versus the local school district?

A Yes.

Q Since that time, has there been an increase in the racial tensions in the community?

A There is no question but that it has increased. This case was filed in July, July 5, 1968, to the best of my recollection. No one paid any attention to it, not the school board, not the school superintendent, the lawyers or the angry south side community, except for the Plaintiffs. All of a sudden when it came to trial, the south side community was shocked, supposedly.

Q This would be two years ago, is that correct?

A Two years ago, yes. I believe '71 was when Judge Seals was the Judge.

Q It was in 1970, I believe.

A Yes. It seemed that all of a sudden they found out this case had been pending and it could mean -- what happened the first day of the trial, there was no emotion, but evidently the school board or

somebody got on the telephone that night to the south side.

MS. LEVATINO: I will object to this.

A To provide the violence.

MS. LEVATINO: I object to that answer on the grounds of hearsay.

Q You may continue.

A But they were there. At one point they even applauded for the attorneys of the school district, at which time the Judge himself said that he was ashamed of their actions and that he could tell it was motivated by telephone conversation. I believe the record shows that. So from that moment on, the creation of the Concerned Neighbors came to the point where the tension has increased. It has definitely increased. It became visible --

Q Before we continue --

Now, what was it about the case which increased the racial tensions in the community?

A The testimony offered by Doctor Carter and testimony by Plaintiff's attorneys and us. I say us, it was our Union or members of our Union and the reporting of the news media as to where busing was coming.

Q Busing became a celebrated cause?

A That is right. And that is when the community, or the Anglos expressed concern. Community organizations like Concerned Neighbors were created for the purpose of opposing busing and supporting the concept of neighborhood schools and they met all over town and made no bones about it and created a tremendous of tension.

Q Would you say it has polarized the community?

A It definitely has. They tried to intervene in the case, which they did not get in. The court would not take it into consideration, so they put leaflets over the community and made telephone calls all over town of the damage that would be created and there is no question that racism was increased.

Q And since the original hearing on the Cisneros case, has the court in Corpus Christi from time to time had additional hearings on the Corpus Christi Independent School District case?

A Yes. The court reviewed the proposals of the school board.

Q Has this increased racial tension?

A Yes, it is there. It is not as open right now and they are dormant, because nothing has really happened in creating a unitary school system. The people that have been molested on the west

side, the Blacks and Mexican-Americans, the school district has juggled them around and has not molested none of them except the people transferred from Peary Place, so therefore it is kind of dormant right now. It has molested them except perhaps the transfers going in.

Q But still this increased racial tension still is in existence?

A Oh, yes.

Q You said you were involved in the steel workers which deals with civil rights, is that correct?

A Correct.

Q Was the steel workers' union one of the sponsors of the Cisneros case?

A The steel workers' membership brought this to my attention some ten years ago.

Q When you say this, you mean the segregation?

A Yes, the problem of the schools, the inferior schools, treatment of the children and what they had at this time.

For example, there would be a sequence system where some teachers would say you would never make it and you are in group 4, and you are in group 1 and so forth, you know.

Q The sequence system, this would be a plan to direct

Mexican-Americans toward what?

A Supposedly to separate the smart ones from the ones who were dumb, you know.

Q Was that done by testing or what?

A Testing or observation. In many cases the teacher said he or she were not bright enough and they would place them in there because of that. It was in the lower sequence.

A What was the result of that with the primary amount of Mexican-Americans being placed in these areas?

A The vast majority of the Spanish-speaking people were classified in the lower area and the curriculum of the books in that area were taught to them. The result was a high school graduate will graduate with a reading capacity of the seventh or eighth grade.

Q That would be the average graduate of this quarter area?

A Yes, and the 97 percent of those, if they want to go to college, have to go for further preparation at Del Mar College.

Q When you say Del Mar College, that is the local junior college?

A Local junior city college. In most of the cases,

that is still the same.

Q Would you contrast that with the performance of the Anglo areas?

A Yes, the Health, Education and Welfare Department quoted their statistics that approximately 80 percent of the students of the south side schools can enter college without any further preparation. Less than 20 percent would be in the west side area schools.

Q Those were the quarter schools?

A Yes, less than 20 percent can go from high school to college. I would like to say more about the union and the Plaintiffs.

MS. LEVATINO: Are you going to introduce those figures?

MR. KORBEL: Off the record.

MS. LEVATINO: I will object to the figures that Mr. Montemayor spoke pending the introduction of the figures from the HW studies.

Q (Mr. Korbel) Go ahead.

A So you see, for sixteen years, I was servicing the membership of our union, so the Plaintiffs came to us and they had agreements -- I could not promote demonstrations against the school board.

This was the agreement. I didn't think that would help.

Q So you advised against demonstrations?

A That is right. I advised them to go to the school board, but peacefully, and no demonstrations. They had some local groups, you know, and I told them I would take it up under advisement with our international officer and I did and the director agreed that something had to be done. I brought it before the international board and the international board okayed on financing them and the furnishing of lawyers. By the time the suit was filed, I was already employed in the civil rights department of the union, so I discussed it with our membership and I told them the procedures they would follow, that they would sign an affidavit to present to the court and so on and that is how it started.

A Has the steel workers' union become identified with the Mexican American causes in the community?

Q Yes, but I want to tell you that the local union is composed of 60-40, 60 percent Mexican-American and 40 percent Anglo, and 1 percent Black. Reynolds Aluminum has 35 percent Mexican-American and 2 percent Black and the rest are Anglos. The

Mexican-American membership is very enthusiastic about learning the procedures. They believe strongly that the union -- that there is salvation. 90 percent of the board is Mexican-American and the reason being because the Anglo member does not need the union as much as the Mexican-American. The Anglo can lose their job, quit or get fired, and can get one twenty times better than the Mexican-American can. They are dedicated to work and learning to enforce the contract and things of this nature because of the leadership and it has been identified as a Mexican-American movement in this area.

The staff, that is myself, has always been, with the exception of the first year, has been Mexican-American staff representatives first in my case and then when I moved up, my place was taken by another Mexican-American. Therefore we are identified with the community because our families went to the quarter schools. The membership said what is the sense of my making five dollars an hour if I have to send my children to a quarter school. That is the reason the steel workers became involved in this case. That is why.

Q And the union is identified with Mexican-American causes?

A There is no question about it.

Q If you mentioned the steel workers' union in Corpus Christi, the average person would think of what?

A He would think of the political and social activities with the school and the strikes.

MR. KORBEL: Would you mark this?

(The above mentioned document was marked Plaintiff's Exhibit 3, Montemayor, for identification.)

Q I am going to show you what has been identified as Plaintiff's Exhibit 3, Montemayor, Nueces County. Can you describe that?

A Well, Doctor Thomas Carter was one of the expert witnesses that the Plaintiffs brought into the case for the purpose of explaining the segregation situation.

Q This would be the Cisneros case?

A Yes.

Q And this was his testimony in 1970, is that correct?

A Yes.

Q And during that proceeding, did you sit through the entire trial of the case?

A I would say 95 percent of the time.

Q Were you there when Doctor Carter testified?

A Every moment of his testimony. I believe if my memory serves me right, he testified here and during the hearings in Victoria.

Q For the Victoria case?

A No, the Corpus Christi case. The hurricane made it difficult for the court to proceed here, so they moved the hearing to the Victoria courthouse.

Q I see.

A And this is his testimony.

A Okay.

MR. KORBEL: I am going to offer what has been identified as Plaintiff's Exhibit 3 into evidence.

MS. LEVATINO: We will object to it on the grounds --

MR. KORBEL: I might say that parts of the record are abstracted in the opinion.

MS. LEVAINTO: I am going to have to go through this, because I cannot say that I will not object to it without going through it.

MR. KORBEL: I understand

MS. LEVATINO: I can't tell you the grounds of my objection right now without going through it.

MR. KORBEL: I think, for the purpose of the record, you will take a look at the testimony and can agree that maybe before trial that we can agree upon a stipulation under which this can be offered.

MS. LEVATINO: All right.

MR. KORBEL: Also, I would like to offer Plaintiff's Exhibit 2 and 2a into evidence, subject fo further explanation and at the time of trial.

MS. LEVATINO: No objection.

Q (Mr. Korbel) Now, in your testimony before the trial court, in the Cisneros case, you stated most of the service organizations in Nueces County are racially identifiable, is that correct?

A Yes.

Q Do they continue to be in the present time racially identifiable?

A Yes.

Q Are the service clubs racially identifiable, such as the Lions, Rotary and so forth?

A To my knowledge, the Rotary has eight Mexican-Americans, I believe. You have a west side club and you might find more there.

Q But your downtown organization is all Anglo?

A Yes, with few exceptions. I could name them almost.

Q Now, during the time that you have been involved with the steel worker's union, I suppose you have had an opportunity to examine elections.

A Yes, I sure have.

Q Is that a part of your function?

A Yes, sir, especially in the legislature.

Q During the time you have been looking at these elections for the school board and whatever, would you say there is ever been an occasion to use racial tactics against the Mexican-American?

A Yes.

Q Would you describe that?

A It is sometimes the way of doing it. Maybe if you say at the Cisneros case even at that time the school board tried to prove that the Mexican-Americans were unidentifiable, that we were just white and nobody could tell the difference. They tried to make that a point and it was foolish, and, of course, anybody, even if you are blind,

could tell that we are identifiable.

To answer your question, racial overtones -- you see, the west side is Mexican-American primarily.

Q This is the quarter area?

A Yes, when we have elections, it is advertised that the west side is coming out and voting heavily and this is done by noon. The headline says west side voted heavy and then somewhere in the body of the story, is where they are interested in so and so and so and so and right there they say the west side is going to elect the Mexican representation. The south side knows after that that they must do something and they vote very heavily in the afternoon. Many times there are paid radio advertisements that are used and also the newspaper.

Q And they say that the west side is voting heavily or the south side is voting heavily?

A Yes, the west side, they say. And they also say supported by the steel workers.

Q Those are catch phrases?

A Yes, that is right, and that proves it. I made some notations on some of the candidates for the past fifteen years, but -- did I answer your

question?

Q Yes, sir. How about whisper campaigns that exist on election day? Do you have that happen here?

A Yes, mostly by telephone. The reason why we know for a fact is because sometimes they call Adams, but it is Adame in Spanish and they rattle off and they say if we don't get out to vote the Mexicans are going to take over. While this is going on on the telephone, they can't help but make some mistakes and sometimes they call a Gonzales or somebody that is married to a Mexican American and this is how we know it happens.

Q How about in your plants, do you see any racial overtones in your plants?

A We are very frank in our plants. We don't mind sitting there and saying I am not going to vote for that Mexican or I am not going to vote for that Anglo and our Anglo membership, we have enough rapport with one another to tell it as it is, you know.

Q Yes, sir.

A And what that says is what the neighborhood where they live is saying also. There is no question. We can produce Anglos in court that will say it.

Q Would you say in elections in Nueces County that

there is a racial anathema among the Anglo voters?

A That is right, without a shadow of a doubt. Then we are also accused of block voting.

Q Would that be a catch phrase also?

A Yes, that is right. If you look at these precincts, this is the real block vote, so you can see that since 200 years ago we have voted for Anglos against Mexican-Americans. You can see where race was not the question on the west side, but it has been on the south side. This is the real block vote.

Q Would you say that this tendency toward block voting has been heightened since the Cisneros case?

A We have not had too many crucial elections that would set a pattern in the past few years, you know.

Of course, the Nixon election could not be identified, you know. We have not had no real school board election because of the opposition. The Raza Unida candidate didn't get votes, but they did get 12,000 votes in this county, but you see, it came from not the Anglos.

Q I see. The last time this case was tried, the court commented on the language barrier, which

gives them problems in participating in politics. Do you find there are Mexican-Americans in the population that speak little English at all?

A Yes, very definitely. We also find that on the ballot that you would find a great number of people within the corridor who may vote for the Sheriff's position or may vote for Margarito Garza, because the are identifiable on the ballot. They vote for the number three or six or eight position, but they can't read the ballot and follow. The Sheriff's race has got more votes than the presidential candidate in the past on the west side.

Q Do you suppose this has caused problems and has an effect on their turnout to vote?

A There is no question that it has.

Q And in the past, there was restrictions such as poll tax and filing fees and these restrictions, did they have an effect on the vote turnout?

A Well, the poll tax shows that it was detrimental to the poor.

Q Would you say that is a residual effect of the poll tax that still remains in turnouts of voters registration?

A Many people who never got a poll tax vote and

while they have been inspired to register, somehow they have not used it yet.

Q Because they are not used to voting?

A Not yet.

MR. KORBEL: I don't think I have anything else at this time.

E X A M I N A T I O N

BY MS. LEVATINO:

Q Okay. Mr. Montemayor, I represent the State in this particular case, which is the issue of whether or not a multi-member district for the State House of Representatives operates to discriminate or offer less access to racially identifiable groups here in Nueces County.

A The multi-member district is what we have now?

Q Right, that it has a discriminative effect.

A It has.

Q All right. Now, we are talking about the school case, the Cisneros case. Let me ask you a question. The steel worker's union was quite involved there because of their people and the Mexican-American that felt the need for improvement of the schools. Was there any feeling

expressed by the white members of the union with regard to the involvement of the union in this school board dispute and the position it took?

A Yes, there was. Some of the original Plaintiffs were Anglo members, but because of my recommention to withdraw their names so that it would be Mexicano and Black, they did. Our Anglo membership feelings did not arise until the court case until the trial had begun. It arose proportionately with the same as the Anglo neighborhood of where they were members of.

Q So you are saying originally that the white Anglo members of the union didn't object to this case, but they felt it was a good case?

A That is right.

Q As it went on they objected?

A Not all of them but some of them did.

Q How -- what kind of objections did they express to you?

A Actually not too many. Because I was not attending those meetings, but they expressed their feeling toward the officers wondering if they were authorized to spend money on a case of this nature and size.

Q Okay.

A And that they would not want to bus their children. They have nothing about integration, because our relations at the plants are beautiful. We eat together and work together and go fishing together and get in the doghouse together.

Q So their objection was not so much to the fact that their children may have to go to school with the Mexican-American people, but they questioned about busing and spending of money from the union?

A That is right.

Q Do you think in your opinion the idea of taking a child from his neighborhood and putting him on a bus and sending him to another part of the city to send him to school, and for the moment, leaving aside what kind of school or percentages that would be there racially, do you think that would be reasonable for someone to not want to do that or not want to have their children bussed?

A That or anything else. They would use any excuse.

Q Leaving the racial part of it aside, and if for example, the area was integrated and if every one of the voting precincts were integrated and the living patters were such that you didn't have all Black or Mexican-American or Anglo schools and your children could go to school two blocks away,

would you prefer that in that situation?

A Well, look. I think you are referring to the neighborhood school.

Q Right.

A Also there is nothing wrong with the neighborhood school. It is best there if it is in an integrated neighborhood, but if the neighborhood becomes an instrument of separating the groups or races, then that must go.

Q And do you think that going back to the feeling of the whites in your unions, that really their feeling was not so much the issue of integration, because they work with you, and as far as going to school with your kids, didn't bother them, but were concerned about the busing?

A That is a superficial feeling. You see, when we first went into this, there was a tremendous amount of tension. We grownups learned to tolerate each other and find a common denominator that ties us together, you know, but it does not necessarily change the feeling that their children could be better off mingling with the Mexicano.

Q You say it could not change the feeling their children could be better off?

A They think their children are better off among the

Anglos.

Q You say you go fishing and socialize --

A Yes, because we have a common denominator.

Q I am talking about the group in your union, and I believe you said their objection to this school case arose from busing.

A The using of the funds.

Q Okay. That and busing?

A And their kids would be taken across town, because they moved to a neighborhood that was supposedly better to have a better school and they objected to being transferred to an inferior school.

Q Do you think that objection was based strictly on the fact that there were Mexicans in that school or perhaps that school didn't have the same courses offered or teachers as the Anglo schools did?

A I cannot put a measurement on it, but of those, the physical aspect of the school, the minority composition and the inferior curriculum.

Q In other words, your testimony is that even the whites, in your opinion, did not want their children to go to school with the Mexican-American?

A No, you remember I said a small minority.

Q So that was not an issue among the rest of them?

A Yes, among a small minority.

Q Okay. You mentioned the sequence system, which you think is not operative any more.

A I don't believe they have that system now. If I may elaborate a little bit, when we filed the case we were requesting -- during the trial it became apparent that in this change, as it took place of the school system, that the sequence system was not important because it could be worked out itself.

Q Okay.

A So then the school district adopted what they called a module.

Q Modular?

A Perhaps that.

Q Now, when the sequence system was being used in the quarter schools, was it also being used in the white schools?

A Oh, yes. The problem was that the Mexican-American schools, it was one plan and the same on the white schools. On the record, the record shows the majority of the Anglos were placed in the higher curriculum and the small minority was placed in the lower curriculum. They had a more uniform system. It was not left up to the teachers.

Q So the implementation was different, but it was

something that was used throughout the school district?

A Yes.

Q In your opinion, do you think there is some advantage, and I am not talking about the Mexican-American versus white schools, but there is an advantage of putting the smarter children apart from those -- not apart, but in a homogeneous type grouping?

A No, I don't believe that.

Q In other words, if you think you have a child, regardless of color or race or origin, are you saying that he should not be given a special kind of treatment?

A Who is going to be the judge?

Q I am not asking about that. All I am asking about is in general educational theories.

A Let me --

Q May I finish my question, please.

Do you not think it would be more beneficial for a child, if he needs special education because of a need for his IQ being lower, do you think there is not a need for special education?

A No, not at six or seven or eight years of age.

Q Then you feel --

A Wait, I feel there is a need for eye or speech or hearing impairment teaching, but for you or anyone to judge a child at the age of six, that his IQ is inferior to the other children and condemn that child forever as an inferior mind that cannot develop as rapidly, and when you leave it up to the teacher --

Q I am not talking about condemning a child forever. I am talking about the value of special education.

A There is a value for it. I was going to use the example of the child going to school when he is five in order to learn the instructions of the teacher. There is a value to that. I think all children who do not understand English plainly enough to observe the instructions should be prepared between ages four and six so that when they go to school they understand what the teacher is saying, but not special education, but Head Start.

Q Is it fair to say that your objection to the sequence program is really based on the way it is implemented then?

A I think it is not my personal objection. I am stating the reason is because the Plaintiffs questioned the education system in this district.

Q That is what I am saying. Is it fair to say that

the objection to the sequence type of system was not to the theory, but to the way it was implemented?

A I think you could get a better answer from Doctor Carter or an expert on that.

Q I am asking you.

A I am not qualified to pass judgment on what is better.

Q But you have already testified criticizing the sequence system?

A I testified to the fact that it was one of the objections the way it was being applied in the west and south sides.

Q This is my question to you. Is it fair to say that the objection which you today have said and also said was a part of the Plaintiff's case, was an objection in a way the sequence system was being applied, but not necessarily in the existence of the system?

A Well, --

MR. KORBEL: Is your objection to the result that so many Mexican-Americans are forced to go into a situation and never go to college?

THE WITNESS: The objection to the

sequence system was the vast majority of students on the west side were placed on the lower sequence system. The vast majority were placed that way there and on the south side it was the other way around.

Q Is that a result of the way the determination of who was going into what system, this kind of thing, is that your objection?

A Well, I believe the objection was and is that we were classifying our children as incompetent to learn and therefore they were given an inferior curriculum.

Q So you are talking about the way -- well, let's move on. I am understanding what you are saying but you have not answered my question.

Now, you said that in the area south of Weber Road that there are some transfers from what has been termed the satellite area into this area.

A Uh-huh.

Q Do you have any observation or any knowledge of the response of the people in this area to the black children or Mexican-American children that have now gone to school here?

A No, I don't.

Q And you are not aware of any moves to get by the

people that live west of Weber Road to get them out of these schools?

A Well, no, I am aware of a proposal that the school board is wanting. They would like to do away with the satellite and this is the only satellite.

Q What does the school board propose to do?

A Do away with it and return to what they had.

Q There is nothing or any moves of picketing schools or saying blacks go home or anything of that nature?

A No, not to my knowledge.

Q So there is no major problem then?

A No, not that I know of.

Q Would it be fair to say that the schools in the Mexican-American corridor area were inferior schools?

A They were and still are.

Q Okay. Turning now for a moment to some of the issues regarding elections, you spoke of newspaper reports and radio reports saying that the west side was voting heavy. Were those, in your mind, true reports? Was the west side in fact voting heavy?

A In many cases, it was not, no heavier than this. Sometimes it was, but in many cases it was not.

Q Now, you testified that phrases such as Doctor

Garcia's candidate, or something like that that had you or he endorsing some particular person in these cases was racially useful as a detriment to the Mexican-American candidate.

A I speak for myself and not for Hector. We, as a union, we endorsed on the record. We have endorsed many, many Anglo candidates and we have at some times endorsed several times Anglos against Mexicanos. I can name them.

Q That is okay. Let me ask you this then. Is this generally known that you are politically active in the union?

A Definitely.

Q Would it be fair to state that the endorsement that the union gave would be the union endorsement and also your personal endorsement?

A No, we have an endorsement that is made by the legislative branch.

Q So you would not be the person selecting that endorsement?

A No.

Q Okay. Is it not true that a number of Mexican -- first, let me ask you this. What is the percentage of Mexican-Americans in this multi-member district?

A The last figures given by the school district --

Q No, what is the number of Mexican-Americans in the multi-member district --

A People?

Q Yes, people.

A Well, the figures are, I believe, that it is 48 percent Mexican-American.

Q Okay.

A And some say 46 and some say 50.

MR. KORBEL: We will stipulate that the census figures for Nueces County show 43 percent. Corpus Christi is 47.58 percent.

Q (Ms. Levatino) Do you accept that figure?

A I accept it.

Q Would it be possible for a candidate running in Nueces County, to win an election without some support from the Mexican-American community?

A Give me the question again.

Q Would it be possible for a person running for the legislature to win without some Mexican-American support?

A Yes.

Q Why do you say that?

A The percentage.

Q In other words, you are saying that he could win

without one Mexican-American vote?

A Yes, the registration is heavy among the Anglos.

Q Do you know of any candidate for the legislature or for a local race that has won a vote without the showing of the Mexican-American voting?

A No, I don't know that. We vote more for Anglos, and the record shows that, than the south side voted for Mexican-Americans.

Q You had a number of candidates elected to legislature and city and county offices, did you not?

A We have had two Mexican-Americans who were elected to the legislature in my lifetime that I know of. It has happened in the past ten years.

Q How many others have run, in your recollection?

A I will have to refresh my memory. Gonzales, Chapa, DePena, several.

Q But you have elected two within the last ten years from this community?

A Not at the same time, but two have served.

Q And you presently have one Mexican-American in the legislature?

A One.

Q And have you had a delegation that had no Mexican-American in it in the past ten years?

A I believe the last ten years, I believe we had one.

For two years we didn't have one.

Q For one term within the last ten years?

A I believe so, but I am not positive. I can't remember what year Tony got elected.

MR. KORBEL: '64 -- '60 through '64.

THE WITNESS: Since '60 up to this time, we have had two.

MR. KORBEL: We will stipulate there have been four terms served by Mexican-Americans since reconstruction in this county and all of them have been since '64.

THE WITNESS: That is right.

Q (Ms. Levatino) Now, in terms of Mexican-Americans holding city and county positions, you have to assume that they were --

A Yes, in the past six years, but prior to that, Maldonado, who was the first one, and before that, approximately fourteen years ago -- he is deceased now. Gabe Lozano, who is now serving and then Doctor Bosques, Tom Gonzales and Richardo Gonzales.

Q You also have Mexican-Americans serving as county officers?

A In the past six years, yes.

Q And as County Judges?

A Yes.

Q And also as County Commissioners?

A There has been one County Commissioner in this history.

Q Is that Ortiz, the present one?

A Yes.

Q But you do have Mexican-Americans that have run and become active in politics, that have run and some have been elected and some have been defeated is that correct?

A We have one, two, three, four county-wide elections, but prior to that we had Flores in the past six years and we have had some. Ten years ago we never had nobody.

Q But they have been involved in the electoral process?

A We have always been involved, but never selected, or seldom selected.

Q You mentioned the Raza Unida putting up a school board candidate and they were defeated?

A Yes.

Q Do you recall the margin of defeat?

A It was pretty good.

Q Did the Mexican-American vote for their candidates there?

A Not enthusiastically. I would not use that as a

pattern.

Q Okay. You mentioned the language barrier, which many Mexican-Americans do meet in reading the ballot.

A Correct.

Q You mentioned the Sheriff's race, and the Sheriff's race will have more vote interest than the president, is that true?

A Yes, I used that for an example.

Q Would it be fair to say that many people can't identify with or have many dealings with people such as Sheriffs or local races?

A No, I think the Mexican-American people have more identified with the Sheriff because there are more arrests among our group.

Q So they are concerned about who is going to be Sheriff and that is a real concern?

A Personally, I don't, but a vast number of our people in the past have put a lot of emphasis on the Sheriff's race.

Q So would you say another reason there is a very high turnout in the Sheriff's race is that because of their interest in the race?

A No, that race is or has been the race that inspired the local people and the ignorance is always

that nobody is telling us what legislators meant to us, but the Sheriffs down here interpret the laws they put in.

Q So they want to know who that Sheriff is that is going to be there?

A Yes, they maybe know who John Harney was and after many years that is a household word. I might say that it has improved, but very little, but it has improved.

Q Have you had much contact with the legislative delegation from Nueces County?

A I am not one who visits with them regularly. I would say this, the closest I became in contact with them and representation here was when I was lobbying for A & I University of Corpus Chriti.

Q Did you ever personally have a dissatisfaction with the votes and representation of the philosophy of anyone or all of the legislative delegates?

A Only on some issues.

Q What would those issues be?

A For instance, when -- it is very seldom that you vote on a clear issue, such as bilingual education. That was clear.

Q And they did vote for that?

A Yes.

Q Okay.

A But the resolution passed by the legislature on the busing question, Carlos Truan is the only one that stayed, or let's say that was for integration at the expense of busing and the rest of them signed the resolution for no busing.

Q Did you ever express your dissatisfaction to them?

A No, I don't chastise the delegation because they don't vote the way I think is proper. I express my opinion when I vote.

Q Outside of the busing resolution, what other issues have you been dissatisfied with?

A Well, if you look at our delegation, they have been gung ho for the teachers or gung ho for the appropriations for this and this, but nothing for reforming the system.

Q What do you mean?

A I mean reforming the system. Reforming means to change the matter, you know, to adopt new methods of education.

Q Do you think the institution of bilingual education was a step forward?

A Yes, it was a step forward.

Q Providing for facilities for adult education?

A Bilingual education is good for all children, I

think.

Q I am trying to get at --

A And the appropriations, if you have that without the funds, it is doing nobody any good.

MR. KORBEL: I am going to object here. I think it is clear that he does have some objection to the way the legislative body voted and it is difficult to go down the roll call and you just can't pick out things from it. You would have to be on top of it to answer a question like that. I object to it because it is repetitive.

MS. LEVATINO: Well, I am going to continue.

MR. KORBEL: Fine.

Q (Ms. Levatino) Can you pinpoint any other types of issues that come before the State legislature where you feel your delegation has not represented you or the Mexican-American the way they should have or you would like for them to?

A Well, another issue was -- I believe the sales tax.

Q I don't believe they voted for the sales tax.

A To the best of recollection, I believe they did.

Q I believe maybe they did subsequently.

A I believe they did in the beginning. You see, I am testifying under oath, and you asked me to say why I don't think these people are representing the interests of the Spanish people.

Come next election, I may still be for them, but I may testify that I don't think they are the best. This is why I am reluctant to pinpoint what I personally think as far as the votes they gave us didn't represent the minority that I happen to be a member of.

Q I understand that and you are aware of the issues of this, whether or not it has given adequate representation, whether or not the people have been given adequate consideration to the viewpoint of that minority. As you are here as a spokesman for the minority, this is the reason these questions are being asked.

I understand your position and I do think you should know why these questions are being asked.

A By the same token, I could ask the State if the Mexicanos have voted differently. You see, the question should be if the Anglo representative voted right, so can the Mexican-American not vote right if they had a chance of getting elected or

a fair chance of it. Under the present system, the way we elect our legislators, I don't think we will have another one and if I were to predict, I would say that he would not be re-elected.

Q What was the name of Representative Truan's opponent this last election?

A I know him, but I can't think of it right now.

Q Was that an Anglo?

A Yes.

Q But Representative Truan did win?

A Yes. He just barely did, but he did.

Q But he did win?

A Yes.

MS. LEVATINO: Okay. That is all I have.

MR. KORBEL: I have a couple of questions.

R E - E X A M I N A T I O N

BY MR. KORBEL:

Q The first time Representative Truan was elected, the multi-member district was not the issue as it is now?

A No, it was not. He came from Kingsville.

Q And that is where he grew up?

A Yes.

Q There is a substantial university population there?

A Yes.

Q And that was in 1968?

A True.

Q Do you have any knowledge of the number of Anglos who normally vote in the primary who refrain from voting to sign the Wallace petition?

A It was a substantial number, but I don't recall.

Q You say there is a chance Representative Truan will not be re-elected. Is that because of the shape of the district and because of the racial polarization?

A Racial polarization, and that is an issue. Busing was made a racial issue of the last city election.

Q Has there ever been a Mexican-American mayor of Corpus Christi?

A No, sir.

Q And the first commissioner was elected in 1968, is that right?

A Ortiz, I believe that is correct.

Q Would it be fair to say that on one hand you could list the number of Mexican-Americans who have been elected county-wide in Nueces County?

A Yes. I might also offer this. Out of this con-

gressional district, up to the last national election, there had never been a Mexicano elected to the National Democratic Party. Some had been appointed, but not elected.

Q What is that sir.

A A delegate to the National Convention.

Q I have a couple of questions concerning the party system in Nueces County. Is Nueces County a one-party town or is it a two-party town?

A I think it is moving toward two parties.

Q In the county elections and the state elections in this county, have there been any Republicans --

A There has been some, but they have not run as Republicans.

Q If a young person came to town and wanted to be elected to the state legislature, would he want to run as a Democrat or as a Republican?

A His chances would be for the Democrat.

Q Which of the two, Mexican-Americans or Anglos would have the grestest chance?

A The odds would be on the Anglo.

Q Now, before she was talking about the sequence system in the education system and your objection to that as being because so many Mexican-Americans were being discriminated against by the sequence

system.

A The objections are presented by the plaintiffs to it. You see, my children have attended parochial schools, so they have not attended any public school system at all.

Q Now, I am going to refer to Plaintiff's Exhibit 2, and on that Exhibit there are some red lines. Would it be fair to say that those red lines represent the commissioners' precincts?

A Yes, I believe those are.

Q These would be the commissioners' precincts?

A Yes.

Q And number 3, would be Ortiz?

A Yes.

Q And if we overlay this Plaintiff's Exhibit 2a on the commissioners' precincts --

A Well, it would be right here.

Q I see. And it would include this over here, Bishop and Robstown?

A Correct.

Q Do you remember when the reapportionment took place?

A I think it was in '67, just prior to Ortiz running.

Q And under the previous system, no Mexican-American had ever been elected?

A Right.

Q It was only as a result of reapportionment that a Mexican-American was elected?

A Right.

Q Do you have an opinion, if we were to divide the multi-member district into three parts, would it be less expensive to run for the legislature as a candidate?

A Yes.

Q Why would that be?

A He doesn't have to concentrate county-wide. He can walk his district and he can knock on the houses and it won't be as expensive. It would create more interest too.

Q Would the endorsement --

MR. KORBEL: I don't have anything else.

THE WITNESS: I want to offer one thing. It depends on what method they are going to use to divide it. There is a way to divide them where the poor won't have any better chance than they have now.

A (Mr. Korbel) But, for example, if a system was devised which would not fragment this situation, would you say the individuals would have a better chance to run?

A Another thing, you see, this part of town --

(Ms. LEVATINO) For the record, you are pointing to what?

A Annaville and Calallen. Was pushed over to Leroy Whiting from San Patricio. The vast majority -- and in this vast area of Portland -- well, what I am trying to say, these people over here don't necessarily have someone who represents their interest. The minority within Leroy Whiting's district, it was San Patricio County, plus Aransas Pass plus another county, three in all. I believe this is where these people are not going to get their representation like they have coming. I am not speaking about Mexican-Americans and I am not speaking of poor necessarily either. Many of the management people live in that area also.

MR. KORBEL: I have no further questions.

MS. LEVATINO: I have just a couple.

R E - E X A M I N A T I O N

BY MS. LEVATINO:

Q Would you say that while there may be certain issues, especially economical issues, that may be coming up and others may be coming up in the state

legislature, that the entire area of this map, Plaintiff's Exhibit 2, also have in common -- in other words, what might be called Corpus Christi issues that are all concerned about that?

A As an illustration, the most recent was the A & I University. This was the thing that brought the community together.

Q Are there some issues that would come up that would affect the whole area?

A Right.

Q Okay. Now, you also mentioned that it would depend if you went to the single-member district, it would depend on how the lines were drawn. If a line was drawn that included the rural county area that made up the district with some of the city, where there was not a lot of people, would it be fair to say that the candidate in that area would have a more difficult time in running?

A The most fair would be the census strike.

Q If such a district was created that had some city population, some rural area also, would it be more difficult for a candidate to compaign door to door in that kind of district?

A Perhaps. But we have a legislator elected from Kleberg County that came to Nueces County. We now

have a judge --. I say, naturally, if an area had a lot of rural area, it would be more difficult to knock on farm doors two or three miles apart and more difficult than it would be house to house in a city block.

Q Would you say, what has been referred to as the corridor area, would you say there is a high intensity of population?

A Yes and so would this and some of this have a high intensity.

Q For the record, you are talking about the south part?

A Yes, this would be for -- all of them have a-about the same equally. This man goes to Calallen and this man goes to Banquete, and this man to Bishop and this man to Flour Bluff and that area over there. It could be balanced equally.

Q If a district did have a share of countryside, the more he had, the more he may have to depend on somebody to get to the people other than the door to door, the more area he had to cover?

A He would have to adjust himself to the composition of the population.

MS. LEVATINO: No further questions.

MR. KORBEL: Nothing further.

(SIGNATURE WAIVED)

THE STATE OF TEXAS I
COUNTY OF NUECES I

I, RONNIE VERNON, a Notary Public in and for Nueces County, Texas, do hereby certify that the facts stated by me in the caption hereto are true; that the foregoing deposition of APOLONEO MONTEMAYOR, the witness hereinbefore named, was at the time named taken by me in stenograph, the said witness having been by me first duly cautioned and sworn upon his oath to tell the truth, the whole truth, and nothing but the truth, and later transcribed from stenograph to typewriting by Gail Duncan.

I further certify that the above and foregoing deposition as set forth in typewriting is a full, true and correct transcript of the proceedings had at the time of taking said deposition.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which this deposition is taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in the action.

WITNESS MY HAND this the ____ day of _____, A.D., 1973.

_____
RONNIE VERNON
Notary Public, Nueces County, Texas

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

WHITE		
VS.		CA NO. A-71-CA-143
REGESTER		

A P P E A R A N C E S :

MR. GEORGE J. KORBEL
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COUNSEL FOR DEFENDANT

Deposition and answers of DR. HECTOR P. GARCIA, who resides in Nueces County, Texas, taken herein by the Counsel for the Plaintiff, before RONNIE VERNON, a Notary Public in and for Nueces County, Texas, on the 27th day of November, A.D., 1973, between the hours of 5:30 p.m. and 7:20 p.m., in the offices of DR. HECTOR P. GARCIA at 1315 Bright, Corpus Christi, Nueces County, Texas, in accordance with the following stipulations and agreements:

IT WAS AGREED by and between counsel for Plaintiff and Defendant in the above numbered and styled cause that all formalities, including issuance of notice, are waived specifically, and that the oral deposition of DR. HECTOR P. GARCIA, may be taken herein forthwith before RONNIE VERNON, a Notary Public in and for Nueces County, Texas, said deposition being taken with the same force and effect as though all requirements of the statutes and rules had been fully complied with.

IT WAS FURTHER AGREED that no objections need be made by any party at the time of taking said deposition; except objections as to the form of the question and leading questions or the responsiveness of the answer; but if and when said deposition, or any portion thereof is offered in evidence on the trial of this cause by any party hereto, it shall be subject

to any other legal objections, such objections to be made at the time of the tender, the same as though the witness were on the stand personally testifying.

IT WAS AGREED BY AND BETWEEN COUNSEL and the witness, that the signature of the witness hereto is waived.

IT WAS FURTHER AGREED that after said deposition has been returned into court in accordance with these stipulations and agreements, it will be treated by the parties hereto and may be used herein with the same force and effect as though all statutes and rules relating to the taking and returning into court of depositions had been fully complied with.

DR. HECTOR P. GARCIA,

having been first duly examined, cautioned and sworn upon his oath to tell the truth, the whole truth, and nothing but the trust, testified as follows:

E X A M I N A T I O N

BY MR. KORBEL:

Q Would you state your name and address.

A Hector P. Garcia, 1315 Bright Street, Corpus Christi, Texas, Nueces County.

Q Is that located within the Nueces County multi-member district?

A Yes.

Q Are you a doctor of medicine?

A A general practice doctor of medicine.

Q I am going to show what has been marked as Plaintiff's Exhibit 1, Garcia, and ask you if you can identify that, please.

A Yes, sir.

(The above mentioned document was marked as Plaintiff's Exhibit 1, Garcia, for identification.)

Q What is that?

A Testimony that I gave as a witness at the Cisneros school case, known as Cisneros versus Corpus Christi Independent School District and it is on school segregation.

A Was that in 1970?

A I believe so.

MR. KORBEL: We would offer that in evidence, or maybe I should ask one more question of you.

Q (Mr. Korbel) If I asked you questions in this testimony, would your answers to those questions be approximately the same?

A Yes, approximately the same way.

Q There would be no material changes of the facts as you gave them at that time, is that correct?

A No, I would say generally so. It is not so long that I would not remember it.

MR. KORBEL: We would offer that in evidence as Plaintiff's Exhibit 1.

MS. LEVAINTO: No objection.

Q Dr. Garcia, have you been involved in encouraging Mexican-American political involvement throughout Texas in the past years?

A I have encouraged political participation in Texas

for at least twenty-six years and also throughout the United States.

Q Why have you been doing that?

A I feel basically, after coming back from World War II, that Mexican-American people were excluded almost totally from participating in the American system of government by exclusions and restrictions.

Q Have some of those prejudices been overcome involved in the government -- have some of those been overcome?

A I would say first that the prejudice and hate and feeling toward the Mexican-American has not been overcome. In fact, some times I think it is worse and as far as results of my activity in trying to improve the political situation, it is better, but the price has been heavy in my own way of thinking. If this is a democracy, then it has been a completely unnecessary to accomplish the objectives we have now accomplished.

Q You would say that they are still the same?

A I would say very little change since twenty-five years ago. I would say the school, government and individual has failed in trying to establish the area generally in getting from their heart to stop their hate and prejudices against us.

It is still there.

Q Would that be true in Nueces County?

A Throughout the nation and state and Nueces County.

Q Would you describe a majority place system in the state in the last several years?

A Since I started participating in politics.

Q When was that.

A 1940 is when I returned from World War II.

Q What has been the sum and substance of those conversations and conclusions that you drew?

A That the place system, as I call it, was set up to continue the exclusion of the Mexican-American in governmental and political activity. It was a continuation of the original feeling. By that, I mean that we had a previous system, and although we had only made token progress, yet this was all too much for the establishment and they set up this system of the place system.

Q Are you talking about with relation to school boards?

A Anywhere. First, we got involved in school systems and it was set up to stop us there at the request of the establishment. This would be any place.

Q It has the effect of diminution of the Mexican-American participation?

A It has two effects, one by limiting the Mexican-American success in being elected and secondly the participation by frustration of the changes of the system.

Q Was this majority place system -- does it discourage the voter, does it discourage the candidate?

A Yes, it does.

Q How does it do that?

A You will have one Mexican-American running against an Anglo that was hand chosen by the system and in the city and county and state, as it ends up, it is one for one vote, but we never have that one vote and we have no more representation than we had previously. The only reason, in the beginning, we were able to move fast, and they fell down in a cavalier-type feeling that they owed us one man, or perhaps one woman, a minimum amount of representation in those boards.

Q So it would be benevolence of the Anglos toward the Mexican-Americans that would be giving you places?

A It would be the cavalier attitude. It is a feeling of guilt, which I don't think they possess. It is a feeling of fear that someone, not us, would

criticism them. The end result is that if they wanted it today, we would not have a single one to represent us.

Q Are you talking about Nueces County and Corpus Christi Independent School District?

A In this case, yes, and other related counties and area.

Q I am going to show you what will be marked as Plaintiff's Exhibit 2, Garcia, and ask you to identify that.

A This is a political advertisement that was placed in the Corpus Christi newspaper on April 5, 1962, in relation to a special election. It was on Del Mar College board, and this was sponsored by supposedly some of the outstanding Anglo-American leaders of this community, at least two of them and perhaps three have served on the school board previously.

(The above mentioned document was marked Plaintiff's Exhibit 2, Garcia, for identification.)

Q Can you describe what the article provides?

A Yes, I remember it, because I protested this type

of article at the Del Mar Board of Regents meeting later while they were supposedly canvassing the votes in a hurry, as they always do when they know they have done something morally wrong and legally wrong and I have a copy of the newspaper where I protested this. This is what you call a type of political advertisement in one of the worst type of race participation that I have had the sad experience of ever seeing in this country. What surprises me is that they do admit their feeling toward us, to quote this gentleman here, it says "already some Anglo voters are retaliating by refusing to vote for any candidate who has a latin name."

It is misleading and deceitful and a lot of it is downright lies. You have to understand and realize that this article was put ahead of the election with the --

Q Was it placed in the paper prior to the election?

A Yes, on April 5th. And at this time we had only one Mexican-American college board member and we were trying to get another one. We had a highly qualified man to run for this post so that we could achieve, out of three places, we could achieve one more. We ended up by having two out

of seven board members.

Q The sum and substance of this article is that Mexican-American people are entitled to one board member, but should not ask for another, is that right?

A Yes, that we should be glad to get one on the board and not ask for another.

Q Would you say at the time of the election that represented the feeling of the Anglo voters in Corpus Christi?

A I would say in 1962 this represented their feeling of hate toward us, of prejudice of the fact that we were not considered the citizens of this state and community and therefore we should not think of running for positions like this and we were being treated as inferiors and, as I said, three out of those, Gandy, West and one other were past board members.

Q These are leaders of the Anglo community?

A They were the cream of the Anglo community, yes.

Q In 1962 was not long ago. Would you say that same feeling prevails today, that Mexican-American people should not be represented?

A I would say it is the prevailing feeling of the community as expressed time and time again by its

leadership. It is that feeling that we should not have more than one member of the school or college board. This is close to the physical contact. It is a contact of those poor Mexican children getting contact in the public schools with the well-to-do.

MR. KORBEL: I am going to offer this.

MS. LEVATINO: I am going to object to it on the grounds of hearsay.

Q Is this a clipping, and I am referring to Plaintiff's Exhibit 2, is this a clipping which was taken from your files?

A Yes, a photostat of this clipping here.

Q And you have the clipping here?

A Yes, the original, yes.

Q And they are the same?

A Yes.

Q I suppose this was clipped from the paper at your request?

A Yes.

Q Did you do it yourself?

A I don't know, but surely it was done at my request.

MR. KORBEL: We would offer it subject to the objection.

Q (Mr. Korbel) Now, during your time in Corpus Christi, especially since --

A Excuse me for a moment. I am not an attorney, but you question this article. I thought perhaps you would become lucid and like to see this paper in its entirety, and here is the article in the back, so as I said, this is --

MS. LEVATINO: Off the record.

(Discussion off the record.)

Q (Mr. Korbel) During the time you have been involved in living here in Corpus Christi and have lived here, have you received hate letters and phone calls and that type of thing?

A Since I started participating in what I considered improving citizenship and trying to improve the status of poor Mexican-American people, I have received threats to my life and family, insulting letters and many other things to the point first that for many years that I have had to have an unlisted telephone only available to the hospitals and I have never had on my car the emblem of the doctor of medicine. For the same reason you noticed on the doors on the front of the office that I have bars and I have triple locks on the doors, not that I am afraid, but I don't want to take a

chance.

Q And most of these letters have come from Nueces County?

A All over the state, but the majority of them from Corpus Christi and Nueces County.

Q And would you get more of these when you testified, for example, in the Cisneros case, did you tend to get more then?

A I think the Cisneros case brought me a lot of this type of letters and calls more so, with the exception of the Three Rivers case.

Q Would you explain that?

A Felix Longoria, who was a World War II fighting man, got killed in the Phillipines. The owner of the Rice Funeral Home in Three Rivers said that he would not let the family use their chapel to give services to Felix Longoria, because "the whites won't like it", and he said -- and we appealed to Senator Johnson and others and we buried him in Arlington National Cemetery.

Q Three Rivers is not a part of Nueces County, but is close?

A That is right.

Q Now, have you been -- throughout the years, have you followed the letters to the editor column in

the Corpus Christi paper?

A Yes, in the newspaper, yes.

Q In your opinion, would those letters to the editor indicate a bias, an Anglo bias against Mexican-Americans?

A Not only the letters, but I think some of their editorial staff also and bias is there.

Q Is this an overt or subtle thing?

A I would say overt.

Q And I imagine sometimes subtle?

A The ones against me sometimes are overt.

Q Do they complain against you as being a participant in racial activites?

A The best or most expressive feeling or colorful language, any time we protest anything, well, hell, why don't you go back to Mexico or why don't they go back to Mexico. This is the general feeling that we were not considered citizens of this state and nation.

Q We have discussed ads which tend to indicate a racial bias in the Del Mar College election in 1962. Do you find racial tension impacts in today's elections?

A Yes.

Q Could you explain those?

A Well, of course, the way has been subtle, not like before.

Q Nothing has come out like this Plaintiff's Exhibit 2 since then?

A No, sir. In the last election, we were shown a sideshow to the big circus in town of them in town.

Q Do you mean the Corpus Christi school case?

A No. I think the Corpus Christi community is typical of the state. They think what they do is funny. The funny thing is that it is funny to exclude Mexican-American people. They get their kicks like that, so consequently the last city election, they pulled the usual thing, the whispering campaign.

Q Can you describe that?

A They would get on the telephone and not only that, we have some letters, and in this case we are trying to take over the city government. We were trying to run the schools and trying to run whatever we run in trying to get control of it and this is done by Doctor Hector Garcia and you don't want another Mexican and what is the city coming to.

Q Now, they call on the phone and talk to people,

is that right?

A This is put in the paper also. They send out letters as well.

MR. KORBEL: Would you mark this.

(The above mentioned document was marked Plaintiff's Exhibit 3, Garcia, for identification.)

Q I am going to show you what has been marked Plaintiff's Exhibit 3, Garcia, a deposition, and I was wondering if you could identify that?

A Yes, this is a copy -- the first part here -- a copy of a spot or spots that was passed on the city election that I have referred to on Saturday, May 22, 1971. This copy I went myself to KRYS radio station and got a copy of it, because this spot was being passed, as far as I could determine, through other radio stations every three to four minutes over the city. This spot was placed several times and we had it stopped. The spot said this -- now, this you understand, this is on election day.

Q Yes.

A "Have you voted today? Surveys from 16 polls on

the west side of our city show that an unusually large number of people representing labor unions are voting in today's city runoff election."

The west side, that is the Mexican side.

Q Is that generally referred to as the corridor section?

A Yes, and west of the corridor. "Surveys from 16 polls on the west side of our city show that an unusually large number of people representing labor unions are voting in today's city runoff election. The county right now already exceeds the number who voted May the 1st. By contrast, on the south side of our city, the vote is very light and there were no lines at the polls. The steel worker's union that is helping to turn out this vote is the same group that sponsored the school busing case. You and I owe it to ourselves and our children to take a few minutes of our time to go vote so these special interest groups will not have the opportunity to improperly assert their influence on the school busing issue effecting our entire community. A little effort now can decide this election." This statement was paid for by concerned parents, Michael Kendrick, organizer.

Q I want to ask a couple of questions. We had testimony earlier this afternoon from Mr. Paul Montemayor that certain catch words were being used to appeal to the racism of the Anglo voters, and those catch words would be such as the school case and busing and that type of thing. Would it be your opinion that this is an appeal to the racist voting tendencies in the southern part of Corpus Christi?

A Yes, I would definitely say yes. This is a run-off and I can show you here that there are letters sent out to all of the voters at the first election and they were vicious. The labor people are mentioned taking over. They say there for instance that I told my nephew, who was running for the city council that if he would enter, I would take over the city government. This is a downright lie, but also --

MR. KORBEL: Would you mark these, please.

(The above mentioned documents were marked Plaintiff's Exhibits 4 and 5, Garcia, for identification.)

Q Are these the types of letters you are talking about?

A I would say this is some of them. This is, I believe, on Saturday May 22nd, and this is for the city and this other one is for the school board.

Q I am going to tender Plaintiff's Exhibit 3 with these questions. You yourself heard this being played over KRYS radio?

A I heard it, yes.

Q And you went down and asked for a copy of it?

A I, myself, yes, sir.

Q And you are satisfied this is a correct representation of what was being played over the radio?

A Yes.

MR. KORBEL: I would offer Plaintiff's Exhibit 3.

MS. LEVATINO: We have no objection.

Q Now, this ad which states that the west side is voting heavily and appealing to the south side, is this typical of the thing that goes on in elections in Nueces County?

A Yes, it has always been the case. As far as I remember, the newspaper and the radio, every race there is a Mexican-American in the race, it says the west side is voting heavily.

Q But they weren't voting heavily?

A No, it was a damn funny thing. I didn't mean to laugh.

Q This is a type of thing that goes on when Mexican-American candidates run, but it doesn't go on when no Mexican-American candidates run?

A No, sir, it does not.

Q I am going to show you a couple of more matters and have them identified to get them in the record. I will show you --

MR. KORBEL: Would you mark these.

(The above mentioned documents were marked Plaintiff's Exhibits 6 and 7, Garcia, for identification.)

Q I show you what has been marked Plaintiff's Exhibit 6, Garcia, and Plaintiff's Exhibit 7, Garcia. Can you describe what they are?

A Exhibit Number 6, this is a letter sent out by the mails entitled "It could be later than you think."

The letter was written on the school election of April 1st, I believe in 1950.

Q I think that is what we determined earlier today,

that it was in 1950. Can you identify what they are, sir?

A Yes, sir, this is a letter dated the first election and again making a reference to the fact that they are running three Anglos.

Q Who are they?

A The establishment, the Anglos, in the community, are running supposedly three of the members, Moody, Mills and Gilliland for the school board election. It mentions the fact that -- it states here that Doctor Moody, Mr. Mills and Mr. Gilliland should be accorded re-election to a second term, which their services and experience so richly merit, without opposition, and especially without opposition predicated on a racial basis." It mentions the fact that "our Latin American friends have had one of their own race on the school board, as is frankly agreed by all fair thinking people that they should have, however, this present Latin American member still has two years to serve on his current term and naturally it was thought that our Latin American friends would make no attempt to put an additional member on the school board at this time, and certainly not for the specific purpose of attempting to defeat an ex-

perienced Anglo-American member for a second term." It mentioned again "for in the March 17 issue of the Latin American publication "La Verdad," which designates itself as the official organ of the GI Forum, headed by Doctor Hector P. Garcia, there appeared on the first page of said publication a strong endorsement of Oscar Phillips as a candidate for the school board, imploring all Latin Americans to cast a vote for him."

Q Was Oscar Phillips an Anglo?

A He was an Anglo name, but I would say whatever the motivation of this family, they were considered to be Mexican-American.

Q Was he dark skinned?

A Not necessarily. He was perhaps like yourself, he was not dark.

Q But he was considered a Mexican-American?

A He lived with us and always lived in the Mexican-American part of town and he was considered a Mexicano.

Q Continue.

A This is important, because what this is trying to tell us here is that in the first place what they say about a member of our race, to let the voters know that Oscar Phillips is not an Anglo. This

they succeeded in, because they said this. "We feel that it is most unfortunate when a few members of any race seek to gain step by step control of our public institutions, and especially such control of our free public schools."

Q At that time, there was one Mexican-American on the school board?

A Yes.

Q So if he had been elected, you would have only had two?

A Right.

Q So you would not have control of the school board?

A No, there are seven now.

Q Now, was Oscar Phillips elected to the school board?

A The result, as published by the newspaper, indicated at one time that Oscar Phillips lost by 250 votes, if my memory serves me right. Then we started checking on the matter and we believe that some votes were lost after they were cast so by the time they had their canvass, Oscar Phillips only lost by 75 votes and we found out there was a discrepancy. The first report was that Oscar Phillips lost by three or four hundred votes. I want to correct the first figure that I

gave you, but by the time the canvass was done, at two polling places, I believe at Lamar was one, they admitted that they failed to count two hundred votes or so.

Q Would that be located in this quarter area?

A Yes, it was one block from Oscar Phillips home. They finally admitted 73 votes beat him and we were not satisfied with this and we filed a suit concerning this and appealed it to the governor to step in. They refused to intervene and they gave me a lot of static. We took it to court and we could prove, and they admitted taking a lot of votes home and not counting them, but nobody ever prosecuted them.

Q What was the final result of your election challenge?

A The judge ordered a new election.

Q What happened then?

A Before the election, in this number 7 exhibit here, and as I called them, the animal clubs, which include the Lions Club and the others, put out or signed this exhibit number 7.

Q Did the GI Forum sign that letter?

A No, sir. As you asked me, the end result was that although we got the election, everbody knew

Oscar Phillips was a Mexicano, and we got beat.

Q You testified this is an example that went on in 1950, but this goes on today?

A Yes, in '73.

Q Would you say the Anglo voters tend to vote along racial lines primarily because and simply because they are Mexican-American?

A I would say yes. This is not only my feeling and contention, but it is also brought out by Edgar Tyson, where they say again that they would not vote against a candidate who has a Spanish surname. This is their own statement.

Q You are referring to the Del Mar College ad?

A Yes, this is their statement. I would say the same thing as there.

Q You have examined the Nueces County election returns for the last several years, especially the ones in which Mexican-Americans have run and you have studied them?

A Yes, I have. Let me quote to you again, it says "Inevitably, this process, if continued, will pit race against race. Already some Anglo voters are retaliating by refusing to vote for any candidate who has a Latin name."

They vote against anybody who has a Latin

name.

Q Based upon your knowledge of the county and the elections over the past last period of years, would you have a percentage of Anglo voters who tend to cast votes along racial lines?

A If it was Anglo pitted against a Mexican-American, I would say today in this county that 85 percent to 90 percent of the Anglos would vote against the Mexicano because of his name.

Q In a matter of equal ability, is that correct?

A No, my figures are given to you on any race where you have a highly qualified Mexican-American running against an unknown Anglo who is not known and he automatically receives 85 percent of the vote of the Anglo. If the Anglo has qualifications and the Mexican-American has qualifications, this runs to 90 to 95 percent. Then this is my personal feeling and observation.

Q And you think the election returns bear you out on that?

A Yes, I would say so. It is a block voting against Spanish surnamed people. If it is one by one, it is a different thing.

Q Now, Doctor Garcia, turning again to the school board issue --

MS. LEVATINO: Are you going to offer these?

MR. KORBEL: Yes.

MS. LEVATINO: What is the purpose, to show discrimination?

MR. KORBEL: Yes. I will offer these in evidence, 6 and 7.

Q (Mr. Korbel) Now, was there a time when the school board was elected on the "Solamente" system?

A Yes, sir.

Q In other words, you could single your votes and get elected?

A That is right, because we didn't have any representation of any board and under this system we could never achieve control of the board, so we would have a spokesman for us to keep them honest, so we went ahead and had to do the "single shotting" as we call it, to give us representation on boards.

Q How many school board members did you elect then?

A We had two.

Q Did there come a time when the school board changed this method to a place system?

A Yes.

Q Under that system, which is the same type of system used to elect state representatives, how

many school board members do you elect now?

A One. We will be able to elect one under the system. The establishment says one and we can have one and that is all.

Q But they let you have one, is that your testimony?

A Yes, we ended up by having one.

Q Shortly after you began to have success in electing members of the school boards in Nueces County, was there legislation enacted in Austin?

A Yes, we started working this thing in Robstown also and after we elected one, if I recall right, to the board, or two on the single shooting system legislation was introduced after the '50s to set up a place system in Robstown and it was introduced, and I don't remember by who, but it was from this county, and it was to keep us from having a minimum representation. I would say from my feeling on this matter that the place system in Texas did not start -- started rather prior to 1950, but as far as getting its momentum to keep the Mexican-American from having representation on the school boards in Texas.

Q Would you say, in your opinion, as a long time political observer, that the multi-member district with the majority tends to dilute the election

of the members of the Texas State House of Representatives?

A Yes, it does. We got the same thing again. We end up by having no more than one, and this is practically at their mercy as it is today.

Q Now, in your opinion, Doctor Garcia, what effect has the multi-member system placed or had on the Mexican-American political success throughout Texas in school board elections and state and county elections?

A I didn't hear the question.

Q In your opinion, what effect has the multi-member system had on the Mexican-American potential for political success in Texas?

A The most it would -- it would give us only token representation at the most. I would say this again. We would be at the mercy or the consciousness of the establishment in this state.

Q Doctor Garcia, I would ask you a couple of questions to qualify you for these opinions I have been asking you about. You have been involved in campaigns for various elective bodies throughout Texas, I suppose, since 1946, is that right?

A Yes, I supported candidates for governor and lieutenant governor, Anglos and Blacks and Mexican-

Americans.

Q And you have been a member of various commissions and study groups which study the effect of elective systems on Mexican-American people?

A I am a member of the U. S. Commission on Civil Rights, Texas Advisory Committee through the United States Commission of Civil Rights. I have been a member of the Democratic Communities, state and national wide in dealing with these problems. I have given testimony on these.

Q Based upon that experience and your experience statewide and in Texas, do you consider that the multi-member majority with the majority runoff and a place system imposes a burden on Mexican-American people in running for political offices in Texas?

A It poses a heavy burden on this type of setup. It is very hard, although a physical burden, and also a financial burden, because you see, for instance, you are running, say countywide for a place, are you not?

Q Yes, sir.

A You have to try to influence all of the voters in the county. If it was a district or surrounding county, then this is a financial and physical burden, so being that we are rather poor Mexican-

American people in this case, so consequently it is a devasting obstacle.

Q In the past, Texas has utilized the poll tax and large filing fees for offices and long residency requirements in order to vote and any number of other devices, which have been declared unconstitutional. Do you have any opinion as to whether or not these devices had an effect on the Mexican-American participation in politics in Texas?

A Yes, they were harsh requirements and expensive especially that we had to pay to vote.

Q Did they diminish Mexican-American participation in politics?

A Yes, because of the prerequisites of voting also.

Q In the past four years or so, most of these have been found to be unconstitutional and the residence requirements have been done away with and others. Would you say that the previous problems the Mexican-American experienced in dealing with these continue to have an effect on Mexican-American political participation?

A We were traumatized for many years and we have not recovered from the trauma yet. I think we have shown some improvement, but we have seen only obstacles on registering and so forth. This is

an imposition on the people and I don't get paid and I don't care about that, but some of the people that are registering voters should be paid.

Q I am going to show you what has been identified as Plaintiff's Exhibit 1, Peeler, and tell you that was described as a map of the Corpus Christi multi-member district and it shows it broken into three parts. Do you have an opinion as to whether or not the Mexican-Americans have a chance or that their chance would be improved in representatives if they were elected from this district outlined on that map?

A I would say this is a county map.

Q Yes.

A I would have to get this broken down in precincts, but as I would say as it is now, we would have a better chance to get two Mexican-Americans elected there than the one we have right now.

MR. KORBEL: There is one other thing. These are the restrictive covenants. Can I offer these?

I will offer these as Plaintiff's Exhibit 8.

(The above mentioned documents were marked for identification as Plaintiff's Exhibit 8, Garcia.)

MS. LEVATINO: No objection.

THE WITNESS: I would like to give you a copy of the letter sent out by the concerned neighbors, and to quote them here, they say that Oscar Reyna, running for Place 4, is an organizer for the steel worker's union and answers to Paul Montemayor, his superior who is an official of the steel worker's union. As you will recall, the Plaintiffs in the school desegregation case, that is, Jose Cisneros, et al, who filed the suit against the school district, were financed by the steel worker's union and Paul Montemayor, to whom Oscar Reyna answers, testified in the case in support of the Plaintiffs and against the school district and neighborhood schools."

MR. KORBEL: We offer that in evidence.

MS. LEVATINO: No objection.

MR. KORBEL: I have nothing further.

E X A M I N A T I O N

BY MS. LEVATINO:

Q Doctor Garcia, would it be fair, in your opinion, to say that politics is a rough and tumble business?

A I would say today it is almost a dirty business.

Q In Plaintiff's Exhibit 3, which relates to the city council election, and where they were talking about the steel worker's union and the laborer vote turning out strong, are there white members of the labor unions -- were there Anglos along with Mexican-Americans supporting candidates to which that ad would be against?

A I think the ads we have shown here, if I remember right, -- I think you are referring more to letters than ads, but I would say I am not too well aware of the breakup of the community. I am sure that they have some Anglo members.

Q Well, -- okay. That radio spot --

A Yes.

Q On that one they were speaking of the steel worker's union and this special interest group in the city, but the steel worker's group, would it be fair to say that the steel worker's group and other people

who were working for the same candidates, that there were Anglo Americans involved in that race in favor of the candidates the steel workers had endorsed?

A I don't know. It is hard to determine what they would do.

Q It is your testimony then that the ad and the implication of that ad was against the Mexican-American and there were no Anglos in this community that would have disagreed with that?

A That is right. The feeling is that Anglos arise and vote against the Mexican-American people who are supported against the steel workers and Doctor Garcia and his friends.

Q It is your testimony that the Anglos, that that race was strictly a Mexican-American and Anglo fight?

A Not necessarily. I would say this is the city race and that is different from the school board race. This is a slate and the NOW Party that I was supporting had a block for the first time.

Q In that city council race, is it your testimony that there were no Anglo-Americans that were supporting the same candidates that the steel workers were supporting?

A I could not say. The end result, however, proved that this was not strictly a matter of a slate more or less.

Q Would it be fair to say that the requirements of the poll tax and annual registration and the requirements for residency worked a hardship not only on the Mexican-American, but on the Anglos also who were also poor or moved around a lot?

A I hate to say this, but as far as I know, and I say this sincerely, I would say there are very, very few poor Anglos in this city. I don't know, I know I have taken an oath and I work everywhere in the city and I don't see a single community that you can say where there are poor Anglos. I would say generally speaking that there are no poor Anglos in the community.

Q Okay. Have you dealt with the members of the present legislative delegation? Have they come and sought your support?

A Yes, they have.

Q Have you worked with them in the Democratic Party and have you discussed the political issues with them?

A Yes, I have, to a limited point.

Q What would be your opinion as to their responsive-

ness, say to bilingual education at this time, and limited to that -- well, strike that.

What is your opinion on their responsiveness to the issues and points which you raised with them?

A I would say that some of them talk about the Anglo, that they have been against us, completely, for many years, some of them. Some of them have been fair with us and I would say very few of them have been with us all the way. You see, in discussing issues, to me, you discuss the issue of bilingual education, which is nothing except education for the Mexican-American under certain legal procedures based on the facts, which says that you cannot speak a foreign language in a school. If you ask me, I would rather say, do you think if the Supreme Court orders transportation, and I am not talking about forced busing, but I am talking about free transportation to go from school to the other, I would say all the Anglo legislators except Cissy Farenthold would have voted against us. They would vote against it.

Q It is generally your testimony that in your opinion the Nueces County legislative delegation has not been responsive to the needs of the Mexican-

American in this community?

A No, I would not say that. I think they have been fair. I would say under the system, I would rather have them responsible to a people in a district where they feel free to run to support those people or not to do it. As it is right now, I would say basically where the legislators live or where the school board members live in the richer part of town, then I would say under the system all of our multi-members, they out of the goodness of their heart, they have no obligation to the poor in this community.

Q Could, or have any one of the members of the present delegation been elected without some of the support of the Mexican-American community?

A Yes.

Q Has any member of the Texas House been elected without any support from the Mexican vote?

A No, of course, you can't. People are free to vote, we pay nobody to vote the way we feel they should vote. You find people who vote -- I have voted for Anglos myself many times.

Q So the present delegation, as it is made up, the people have received votes from Mexican-American?

A Yes, I would say yes.

Q From a practical political standpoint, the Texas Representative from this district could be elected without any support from the Mexican-American community?

A Yes, I would say so, on man by man. This happened this last race. You go into two races, Judge Hector dePena and Carlos Truan. In my way of thinking, the qualifications of one, Carlos Truan, was ten times better on his part and there was a block voting and like Hector dePena, because of their names, their opposing candidates were so weak and it was a question of block voting.

Q But Carlos Truan did win the race?

A Yes, barely.

Q And he did get some Anglo votes?

A Yes.

Q This legislative district has never been a single member district in the Texas Legislature, is that correct?

A I can't recall.

Q Well, they, since the city and county of Nueces County has had enough population to give it more than one representative, it has been a multi-member district?

A I don't know. You see, what happened, of course,

we started supporting Anglo representatives for many years, because we didn't have a chance to win. We have started working trying to run somebody. I am trying to tell you this, that under a system, and here you have this multi system on the school board election and --

MS. LEVATINO: Do you want to put that map in evidence?

MR. KORBEL: Yes.

THE WITNESS: I would say 50 percent Mexican-American and 5 percent Blacks and 7 board members, none of them black and one Mexican-American. What hurts the most here is the west part of town, you have none of them residing on the west part of town, so I would say to you that under a geographical representation, we could end up by having three representatives who would be responsible for people in that area. I say generally speaking no, they don't care about them.

Q Okay. It is your testimony that the Nueces County legislative delegation does not have to be responsive to the needs of the Mexican-American?

A That is right, as it is set up now.

Q Would it be fair to say that many of the elections, in this case legislative, school board and city,

could also be broken down along liberal conservative lines?

A Well, it comes running against Mexican-American and a breakdown along those lines.

MS. LEVATINO: That is all I have.

R E - E X A M I N A T I O N

BY MR. KORBEL:

Q In your opinion does this existence of past discrimination and present discrimination against Mexican-American and Blacks, fully preclude their participation in politics in Nueces County?

A Yes.

Q In your opinion, does the past and present discrimination against Mexican-American and Blacks fully preclude their participation in politics in the State of Texas?

A I would say certainly, as a proportionate total. It should be better in proportion to population.

MR. KORBEL: That is all I have.

MS. LEVATINO: I have nothing further.

MR. KORBEL: We will offer this as Plaintiff's Exhibit 8 in evidence.

(SIGNATURE WAIVED)

THE STATE OF TEXAS]
COUNTY OF NUECES]

I, RONNIE VERNON, a Notary Public in and for Nueces County, Texas, do hereby certify that the facts stated by me in the caption hereto are true; that the foregoing deposition of DOCTOR HECTOR P. GARCIA, the witness hereinbefore named, was at the time named, taken by me in stenograph, the said witness having been by me first duly cautioned and sworn upon his oath to tell the truth, the whole truth, and nothing but the truth, and later transcribed from stenograph to typewriting by Gail Duncan.

I further certify that the above and foregoing deposition as set forth in typewriting is a full, true and correct transcript of the proceedings had at the time of taking said deposition.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which this deposition is taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in the action.

WITNESS MY HAND this the ____ day of _____, A.D., 1973.

_____
RONNIE VERNON
Notary Public, Nueces County, Texas

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CURTIS GRAVES, ET AL.
VS. Civil Action No. A-71-CA-142
BEN BARNES, ET AL.

DIANA REGESTER, ET AL.
VS. Civil Action No. A-71-CA-143
BOB BULLOCK, ET AL.

JOHNNY MARRIOTT, ET AL.
VS. Civil Action No. A-71-CA-144
PRESTON SMITH, ET AL.

VAN HENRY ARCHER
VS. Civil Action No. A-71-CA-145
PRESTON SMITH, ET AL.

FRANK A. ESCALANTE, ET AL.
VS. Civil Action No. A-71-CA-115
MARK WHITE, ET AL.

JAMES GASKIN, ET AL.
VS. Civil Action No. A-71-CA-146
MARK WHITE, ET AL.

WANDA L. CHAPMAN, ET AL.
VS. Civil Action No. A-71-CA-155
MARK W. WHITE, JR., ET AL.

* *

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For the Defendants

* * * * *

ANSWERS AND DEPOSITION OF L. DEWITT HALE, a witness called by the Defendants, taken before Dwain Coffey, Certified Court Reporter in and for Travis County, Texas, on the 19th day of November, 1973, beginning at 3:30 o'clock, p.m., at the 7th Floor of the Supreme Court Building, Austin, Texas, pursuant to the agreement hereinafter set forth.

Duplicate Taken November 19, 1973

I N D E X

WITNESS: PAGE

L. DEWITT HALE

Examination by Mr. York 3

Examination by Mr. Richards 55

Examination by Mr. George 70

E X H I B I T I N D E X

EXHIBIT NO.	DESCRIPTION	PAGE MARKED	PAGE OFFERED	APPEARS
DX-1	Census Tract	3	12	Rear cover of original.

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A G R E E M E N T

It is agreed by counsel for the respective parties hereto that time, notice and all other requirements of the Texas Rules of Civil Procedure pertaining to the taking of oral depositions are waived, and that the deposition of the witness named in the caption hereto may be taken at this time and place and may be used on the trial of this case the same as if the witness were present in Court and testifying in person.

It is further agreed by counsel for the respective parties hereto, that after being transcribed into typewriting by, or under the direction of the officer taking the same, said deposition may be certified by him and filed by him in the office of the Clerk of the United States District Court For The Western District of Texas, Austin Division, without the necessity of obtaining the signature of the witness, same being waived by counsel for the respective parties and by the witness.

* * * *

L. DEWITT HALE,

said witness, after being first duly sworn, was called as a witness by the Defendant, and testified as follows, to-wit:

EXAMINATION,

By Mr. York:

MR. YORK: Mark that as Defendant's Exhibit No. 1.

(Whereupon, Defendant's Exhibit No. 1 was marked for identification.)

MR. RICHARDS: Let me state as a preliminary to this deposition that I have stated off the record that we had on the Plaintiff's side we had allocated responsibilities. Nueces County was allocated to George Korbel, American Legal Defense and Education Fund, and he is not present here for this deposition. I am not prepared to cross-examine Mr. Hale because simply I have not done any background preparation and so for my

purposes I am going to be opposed to closing the deposition as to cross-examination. Now, I don't know all the facts with respect to the notice given to Korbel about the deposition. I know I spoke to him in Lubbock this morning by phone. At that point, he was under the impression that the Hale deposition had been postponed and so I am not aware of -- but I do know he was in Lubbock with no possibility of getting here this afternoon for the deposition.

MR. GEORGE: Some kind of statement on the allocation of responsibility and the republican plaintiffs are not either prepared to cross-examine on Nueces County.

MR. YORK: David, what time did you talk to Korbel this morning?

MR. RICHARDS: He called when I first got to the office, around 9:00. I am not sure, early in the morning about 9:00 or 9:15.

MR. YORK: Did he say that it was impossible for him to travel to Austin from Lubbock and to arrive here by 3:30 or so in the afternoon?

MR. RICHARDS: No, he did not say that to me. I said to him that I heard they were going

to -- did he know that they were taking depositions today including the deposition of Mr. Hale because that's what I had a message in my office that that was what was coming off. He said, no, he understood they had postponed Mr. Hale's deposition for some other time. So, there was no discussion whatsoever whether or not he could get here and I didn't know until later that Mr. Hale's deposition was actually going to be taken today.

MS. LEFATINO: I did speak with Mr. Korbel prior or during last week and informed him that there was a good possibility we would be taking Mr. Hale's deposition today. I also spoke to him this morning on the telephone, I believe, prior to -- it was before I talked with you which would -- whether Korbel talked to you first or me first. I did again tell him that Mr. Hale would be deposed today and he voiced no objection to it at that time. So, I assume -- we did discuss other deposition matters with regard to those being taken in the future.

Q Give us your name, please, sir.

A. L. Dewitt Hale.

Q Where do you live, please, sir?

A Corpus Christi, Texas.

Q What is your business or profession?

A I am a lawyer.

Q And how long have you been a licensed attorney?

A Licensed on December 31, 1940.

Q How long have you lived in Corpus Christi or that area?

A Since about November, 1946, approximately.

Q Have you lived there continuously since that time?

A Yes, sir.

Q Are you presently a member of the Texas Legislature?

A Yes, sir.

Q And how long have you been continuously a member of the Texas Legislature?

A Continuously since January of 1965.

Q When were you first elected to the Texas Legislature?

A In November, 1938.

Q And from what area, county, or whatever was at?

A Collin County.

Q Which is located where in Texas?

A It joins Dallas County on the North, Northeast.

Q All right. Why don't you just by shorthand narration bring us from 1938 up until the time you first ran

for elective office in Nueces County.

A. All right. I ran for legislature first in 1938 and was elected. The war came along and I was out of politics during the war. After the war, I moved to Corpus Christi and began the practice of law there with no intention of ever getting back into politics. In 1952 -- let me back up. In 1951 there was a Reapportionment Act passed by the legislature affecting representative districts and as a result of that Reapportionment Act, Nueces County acquired three representative seats and a part of a fourth and at that time as the 1952 election approached, I was encouraged by a number of people who knew I had been in the legislature once before, to run and I did run and was elected and I served from 19 -- January, 1953 through December, 1962. In 1962, I ran for the Senate and got beat, so I was out of office from '62 through '64. '63 and '64 and in 1964 primary, I ran for House seat again and was elected and served continuously since that time.

Q All right. During the period from 1946 through 1952, were you familiar with elective politics as they existed in Nueces County?

A. Yes, sir. I would say that I was not as familiar as I

would be if I were in public office, but I was probably a lot more familiar than 99 percent of the people down there because I was an active participant in all of those campaigns although I was not a candidate myself.

Q You have always run and been elected as a democrat, I presume?

A Yes, sir.

Q And have you practiced law in Nueces County continuously for a living since 1946?

A Yes, sir.

Q What was the representative situation in Nueces County prior to the Reapportionment in 1951?

A Nueces, Jim Wells, in Duval County, was joined in a three county district which elected one representative.

Q All right. And what was the result of the change in 1951 or 1952?

A Nueces County was given three seats in the House and it was joined with Kleberg County and I don't -- I don't believe Kenedy County was in that district. I believe just Kleberg and Nueces County were joined as a separate district known in those days as a flotorio district and that flotorio district elected one. So that Nueces County in fact had four representatives and Kleberg County had one

representative which also had to represent Nueces County.

Q Could you bring us up to date in any kind of a capsule form as to what subsequent Reapportionment Acts have done in Nueces County?

A I am not sure that I can do it precisely. The 1951 Reapportionment, if I'm not mistaken, stayed undisturbed through the ten years that I, before I ran for the Senate. I believe in 1961 session of the legislature passed another Reapportionment Act and I believe in that 1961 Reapportionment, Nueces County acquired four seats, I believe. Now, I could be in error on that. At one point, and the procedure here, historically we had four all by ourselves and I believe it was as a result of 1961 Reapportionment. Subsequent thereto there have been about three Reapportionments, I believe two by the legislature and one by the Redistricting Board that have been done as a result of federal court decisions, and those have varied. One of those Reapportionments combined the Nueces and Kleberg into a single district with four representatives running at large, and I believe we operated that way for either two or four years. Well, it must have been about four years because I made two campaigns in Kleberg County during that time. Then, under a subsequent

Reapportionment, they took Kleberg away from Nueces County and put it in another district and I am not sure exactly what the composition of that district is, and then they took the Northern and Western part of Nueces County and joined it with counties to the North in a district leaving the Southern and Eastern part of Nueces County as a unit with three representatives, and that is the posture in which we are operating today.

Q All right. What has been marked here as Defendant's Exhibit 1 on the Hale deposition, would you look at that map prepared by the Legislative Council and see if it accurately describes District 48?

A Well, I am -- I am familiar with this map. We have been working with these maps off and on for several years. And to the best of my recollection, that is correct. The only thing -- the only hesitation I have is that this red line which you have drawn on here, someone has drawn on here, dividing District 48 from a part of District 41, I think, is correct, but I am not entirely sure about the Northern part of that line. I know that Bishop, the community of Bishop, is in District 41. The community of Driskell is in 48 and that dividing line goes down Highway 77, that is

correct. All of the city of Robstown and part of the area here that is not even in the city limits of Robstown but it's in the adjoining census tract is in 48, that's correct; and I think the whole thing is. I assume that red line is correctly drawn.

MR. RICHARDS: We have no objections to it. The record in this case already contains certified copies of the district as they now exist and I presume if there is any variance I understand would be whatever the official record contains.

MR. YORK: We might have some dispute what the record in this case is but --

MR. RICHARDS: I am talking about the case of Regester Vs. White that's been in the Supreme Court and we have a 4,000 page record. That's the case I mean.

MR. YORK: What we are saying is that we are not certain that is the record in this case. The stipulations contained in that record are binding in this case but we can fight that out later on.

A. Well, I think this map correctly reflects the status of

the districts.

Q Okay.

MR. YORK. We will offer what has been marked as Defendant's Exhibit No. 1 on the Hale deposition.

(Whereupon Defendant's Exhibit No. 1 was offered into evidence.)

MR. RICHARDS. Well, with the objection we have noted.

Q Talking first about the legislative delegation that has come to Austin from Nueces County since 1952 since it has been a multimember operation, or backing up a little bit from 1946, from the period from '46 to '52 that you are familiar with, during that period where there was a single legislator representing those three counties. Do you remember who the representatives were in terms of whether they were Anglo or Chicano or black?

A Yes, sir. In 1946 Mr. O. E. Cannon was elected representative from that three county district and he

served two terms. He was elected in 1946 and re-elected in 1948. Mr. Cannon was, obvious from his name, was of Anglo-Saxon descent. He is now the judge of the -- on the -- one of the judges of the Municipal Court there in Corpus Christi, incidentally. He did not run for re-election in 1950 and his seat was won in a contested election by a gentleman by the name of Gabe Garrett, who was at that time a publisher of a weekly newspaper in Corpus Christi, and Mr. Garrett served one term representing the three county areas and when the 1952 election came up, of course, his three county district had been abolished. So he ran then for one of the three seats in Nueces County under the Reapportionment and was elected in 1952.

Q All right. Tell us, first of all, in kind of a summary way what the makeup of the delegation has been from Nueces County since that time concentrating on whether women have been included in the delegation, whether Chicanos have been included and whether blacks have been included and whether republicans have been included.

A The election process, as far as our legislative delegation has been concerned, has been mostly cosmopolitan. We have had representatives since 1952 from Nueces County representing almost every area of

the political spectrum.

MR. RICHARDS: Can we go ahead and get them specific? I thought you were going to give us '52 by name. Can we go ahead and get those? Can we go ahead and get those now while we are at it before we characterize?

THE WITNESS: Yeah.

MR. RICHARDS: If you are going to trace them on through for us, I think that was the question.

A If you would like. In 1952, the elections of 1952 resulted in delegation composed of Mr. Gabe Garrett, Mr. Curtis Ford, L. Dewitt Hale, and the flotorio representatives for Kleberg and Nueces was Ben Glusing from Kingsville. The first three living in Corpus Christi.

In 1954 election, let me see. In 1954, Mr. Garrett did not run again. And his place, I believe, was taken by Mr. Woolsey. Let's put him down temporarily here on your list. Mr. Ford was re-elected and Dewitt Hale was re-elected and Glusing was re-elected. So, the only change at that time was that one seat.

In 1956, Mr. Forsythe was elected to Place 1,

Mr. Woolsey to Place 2, and I was in Place 3, Dewitt Hale, and Glusing in the flotorio.

In 1958, Ronald Bridges in Place 1. Woolsey in Place 2; Hale in Place 3, and Glushing in the flotorio.

In 1960, let's see. 1960, how many times do we have Woolsey down there on your list?

MR. RICHARDS: I show him to be elected first in '54, then in '56, and then in '58 in Place 2.

A I don't believe Mr. Woolsey served but two terms. I don't have all these newspaper clippings quite back that far so I am shooting from memory. Let's see here.

MR. RICHARDS: As far as I am concerned, Mr. Hale, just as best you recall. I am not going to come back and try to prove you wrong.

A Let's see. In 1960, Glusing was re-elected and I was re-elected, Hale. Bridges was re-elected. Let me back up a minte. In 1954, you have got Woolsey?

MR. RICHARDS: Un-huh.

A That was J. W. Cooper instead of Woolsey. J. W. Cooper served one time in the legislature. So, that puts Woolsey being elected in '56 and '58 for two terms. All right. Then in 1960, let me see.

Q Again, you need not be exactly on these.

A I am not sure about 1960. Let's see, 1962, let's see. In 1960, it would have been Travis Peeler to the House in 1960. Now, does that give you four?

MR. RICHARDS: Un-huh.

A So, 1960. All right. In 1962, you have Peeler re-elected, Bridges, re-elected, and James Kalger, K-a-l-g-e-r, and James Lattimore, L-a-t-t-i-m-o-r-e. James Lattimore was the fourth.

Then, in 1964, let's see. In 1964, William Bonilla, B-o-n-i-l-l-a, and Kalger and Hale and Peeler. In 1966, Scoggins and Bridges and Hale --

MR. RICHARDS: Off the record a minute.

(Off the record discussion.)

A Where were we now?

MR. RICHARDS: You were listing in '66, Scoggins, Bridges, and Hale, the legislative delegation. That would have been after the Reapportionment Bill in '65. So perhaps it was cut back to three seats on it then.

A No, we still had four, I believe, let's see. How many times do we have Peeler in there?

MR. RICHARDS: I believe we have him '60, '62, '64, and '66.

A Then we would have been there in 1966. Then, in 1968, Farenthold, Truan, Salem, Hale.

1970, repeat. Farenthold, Truan, Salem and Hale.

And 1972, we dropped back to three. And that would be, Farenthold dropped out, so that would be Hale, Salem and Truan and the Northern part of the county was tied in with Leroy Wheating who represents part of Nueces County under that. Now, that summary gives you, I think, tells the story all its own in that you -- if you will just check back with me and I realize some of what I am about to say could be a matter of personal opinion, but -- by and large the

voting records and the Texas Manufacturer's Associations compiles voting records. The AFL-CIO compiles voting records and other organizations compile voting records to put out and show how a representative votes and re-acts, and generally speaking, for example, you have on the -- of a very conservative political philsophy. You have people like Ben Glusing in there, Bill Woolsey, J. W. Cooper, Charles Scoggins, a republican incidentally. On extremely liberal thinking, you have people like Gabe Garrett, Curtis Ford, Carlos Truan. Well, I hesitate to classify myself in the political spectrum. Although as great as an authority as Preston Weathered in one of his rating sheets one time rated me as a moderate democrat and I considered that the ultimate compliment coming from Preston Weathered. My political position in this thing, not that it is any significance in this lawsuit, has been a fairly steady one and yet today I am considered a conservative and whenever I first went into the legislature I was considered a liberal and my stand and posture is about the same as it was then. I think the whole political philsophy of our country has moved to the left and I have held as about a steady position and as a result I have moved over on the conservative side of the

ratings now where I used to be leaning toward the liberal side. But, anyway, my political philsophy, the point I want to make on this, that we have covered the full range on the political spectrum from extremely conservative democrats and one republic and two extremely liberal democrats with a variety of degrees in between represented in the 20 years since 1952 in our delegation. From a sex standpoint, we have elected one woman. Francis Farenthold, she was elected on two different occasions, served two terms and has, as you all know, ran for governor two years ago and made the run-off and lost in the run-off for governor. We have elected our delegation one republican Charles Scoggins. He was elected in 1953 in a special election to fill Lattimore's place. Mr. Lattimore having been killed in an automobile collision in 1953 and Mr. Scoggins was elected there. Mr. Scoggins lost in 1964 and then he ran again in 1966 and was elected and ran again in 1968 and lost. So, he is -- again, it's one of those things to me points out that each race has been an individual proposition and an individual win or lose with the individual candidates on their merits without regard to it.

With regard to the racial composition of the

delegation, we have elected two Latin-American representatives, Tony Bonilla was elected in 1964. He was defeated for re-election in 1966 but he lost in the democratic primary to another Mexican-American, a boy by the name of Gonzolas beat him in the primary, and then the second one then was Carlos Truan who was elected in 1968 and again in 1970 and a third time in 1972, and he is still a member of our delegation. From a religious standpoint, we have pretty much covered the spectrum. I am a Baptist, Carlos Truan is a Catholic, Joe Salem, I hesitate to say, he may shoot me, I think he is a Mohammand, but I am not sure of that.

Q He is Lebanese, is he not?

A He is a Lebanese by racial background. In fact, some of our --

MR. RICHARDS: Greek Orthodox.

A We have jointly made a lot of appearances before civic clubs in the past four years and when Sissy was in our delegation, I used to bring the house down by I being the senior member; I was usually the first one called on and I would bemoan the composition of my delegation when they were complaining about us not doing this and

doing that and I would say, golly, look at my delegation here. I have got one Arab, one Mexican, one flustrated female and one broken down lawyer in our four-member delegation, and that's literally what we had. It was -- I can't imagine a more cosmopolitan delegation than we have had through the years in our delegation.

Q What is the current ethnic make-up of District 48 in terms of percentage of Chicanos, percentage of Anglos, and percentage of Black population?

A I should have brought my cards with me. I have that broken down by census tracts and by racial composition. Actually, according to the census, the official census publication you have really got to break it four ways. Got to break it into Anglo, Anglo-American, Mexican-American, Negro, and others. Because they have another category for others in their census publications.

MR. RICHARDS: That's Asian, I think, isn't it?

A I presume it's Japanese, Chinese, and whatever else it is. Anyway, in our county, it runs there, roughly, in District 48, it's roughly five percent Negro. It's about 40 to 41 percent Mexican-American, and there is

about one percent, I think, we have got, roughly, one percent in that other category and the balance is Anglo-American, about 55 or 56, 57 percent Anglo something to that effect. Approaching 60 percent; between 55 and 60 percent.

Q Do you know, if there is, pardon me, did you want to add something?

A What I was going to say, you run into some definitions and questions on terminology when you do that. They define Mexican-American in those census books as everyone that has a Mexican sounding name is included in it which you get into a lot of shadowy areas by name as to whether they are Mexican or whether they aren't. For example, we have a Constable in Nueces County by the name of Fred Wilburn. That name tells you absolutely nothing. He happens to be a Mexican-American, but you -- the name doesn't tell you that. You have to know him to know that. So, I think that any percentage -- even the percentages you take from the census publications themselves, there are some shadowy areas whenever you start trying to precisely find how many Anglo-Americans there are, how many Mexican-Americans there are, and how many Negroes.

Q All right. To your knowledge, is there any appreciable

difference in the voting patters in terms of voter turn-out between the Chicano population in District 48 and the Anglo population?

A You mean in terms of the percentage of the qualified electors who actually exercise a franchise and vote?

Q Yes.

A I haven't ever studied the pattern to see that, but just as, as a opinion, I would say that generally speaking we probably get a better turnout among the Mexican-American people than we do the Anglo people.

Q All right. What is the procedure for getting on the ballot in Nueces County in District 48? We have heard talk of some other counties about schemes of slating where one entire group may be involved and, say, gets on the ballot and that kind of thing. Is there any such thing in operation in Nueces County?

A No, and there never has been. Since I have been a candidate in every election that was held in Nueces County, starting in 1952, up to the present time. In 1952 was the first time we had a multimember district in Nueces County. There have never been any slates around there and everyone runs as an individual. When I decided to run, I went to the county chairman and said, I want an application blank and I filled out an

application blank and swore to it and the notary took my acknowledgment on it and filed it and I was a candidate. I believe I paid him a $100 filing fee, if I'm not mistaken. Or maybe he billed it to me later, I am not for sure. Every race has always run as an individual. There's no such thing as a good government league or council for better government that picks or selects the candidates in our legislative races. That has never been true down there since we have had a multimember district. Each race stands on its own.

Q Is there an organization of labor interest in Nueces County in any form or way exercises any influence over the selection of candidates or the endorsement of candidates once they are selected?

A Well, of course, there are many labor organizations in Nueces County. I don't know how many. Just as a wild guess, I would say there are probably 12 or 15 different unions that have locals in Corpus Christi. There is a, I say loosely knit, I don't know whether that's really accurate or not. There is an organization called the Central Labor Council there and I am not sure who all is on that council, but I do know there is such an organization and it's a sort of a holding corporation for all these locals, a coordinating agency for all

these locals, Then, there is another one called the Building and Constructon Trades Council which is a similar type of organization for the unions that are in the building and construction area, but and you say do they influence -- have any influence, why, I am sure they have influence. To my knowledge, they have never picked a candidate though. They take a stand on everybody that runs and either individually or electively take sides. In some races, they endorse candidates and in some races they don't. They have never followed any particular pattern.

Q What about or what sort of organization exists among the Chicano community? Is it organized in the block and some fashion, different from the other -- rest of the community or not?

A No, I don't think so. You have a number of organizations whose membership is primarily Mexican-American extraction organizations. The two leading organizations would be the Lulac which is short for League of United Latin American Citizens, I believe, is the full name of that. I happen to be a honorary life member of that organization, incidentally, and which I am proud. They made me an honorary life member because of some of the work I did in the field of education directly pinpointing

the problems of the Latin-American child being --

Q They didn't vote you in as being unresponsive as to the needs of the Mexican-Chicano community, did they?

A They voted representative, Malcolm McGregor of El Paso and me both in the life membership at the same time because representative McGregor and I had pushed legislation in there that was designed to set up special training programs for non English speaking children of the age of five years, to give them instruction in English language so that they could enter the first grade on a competitive level with the children who could speak the English language, and it was program benefited in my area primarily the Mexican-American people. In other areas of Texas, it benefited German children in some instances and some other nationalities in other areas but that was the program that we fought for for several years and they voted us life membership because of our work on that and other educational areas effecting the Latin-American children. Then, there is also an organization called the GI Form which is another large group primarily orientated toward Mexican-American communities but, again, that is not--there is no racial qualifications for joining those organizations. Both of those organizations have

members who are not Mexican-American extraction. I don't know to what extent or the amount of it, but there are other members, but that's -- those organizations although those two are primarily oriented toward the Latin-Americans, you also have the organization called the Mexican Chamber of Commerce down there and it's working in pretty close collaboration with the Corpus Christi Chamber of Commerce, and again there is -- there is no racial distinction in either of those organizations. There are a lot of Anglos that are members of the Mexican Chamber of Commerce. They are a lot of Mexican businessmen members of the Corpus Christi Chamber of Commerce. So, there is a lot of cutting across the lines on those organizations, and I presume there are lots of other organizations. There are three that I happen to think of oriented primarily toward the community of the Mexican descent people.

Q In the voting situations where there has been a race particularly, say, in the democratic primary between an Anglo and a Mexican-American contested race, has the vote, to your knowledge, broken down total along ethnic lines or have the ethnic groups been divided in their response to the candidates?

A Well, that's an extremely difficult question to answer,

and, of course, it is a judgment. It's a judgment response to it. There, I presume, you would have to say there is some tendency for Anglo people to, other things being equal, to vote for an Anglo. There is a tendency for people of Mexican extraction, all things being equal, to vote for a person of Mexican extraction. But we have crossed those lines so many times that it's just -- it's a pattern that you can -- you just can't establish a pattern out of it. I am a living example of that. For instance, I always, ever since I have been in politics, consistently obtained a much larger percentage of the Mexican-American vote than I have of the Anglo vote in Nueces County. And I don't know why except that I just have a big community of interest with the Mexican-American people and with the leadership and they are my friends and I am their friend and I am working with them or for them through the years, and the same thing is true in many instances -- you just can't draw a pattern. For instance, Carlos Truan in the last election, in the 1972 election, had an opponent who was an Anglo and Mr. Truan won. In the election last year the County Court at Law Number 2 was a race between a man named DePena, obviously of the Mexican descent, and Wilson, obviously of Anglo descent. Mr. DePena won the

county-wide race. So, and you can go on, Oscar Soliz, who is our district clerk now defeated when he was first elected district clerk about two or four years ago. He had two or three opponents all of whom were Anglo-American descent and he defeated all of them and was elected district clerk. He is making a fine district clerk. County Court at Law Number 1 is held by Judge Garza and he defeated a fine young lawyer, Anglo lawyer there by the name of Jack Kelso in a county-wide race. So, when you say is there any pattern, I can answer that no, there is no pattern of that type that I can see that is discernable. I would say there is a tendency to follow racial lines and other things, all things being equal, but by and large you look through these individual races through the years and you find that there is not much pattern to it. Sometimes an Anglo wins and sometimes a Mexican wins and it just sort of depends on the individual race.

Q All right. During the more than 25 years that you have been associated with politics in Nueces County, have any of the races that you have been aware of been run so that the issues in the race were racial issues where there were racial slurs being heard about and were the issues before the public were issues of race and issues

of Anglo versus Chicano et cetera?

A I hesitate because I don't recall any off-hand. I was trying to think back if we had had any races like that and I certainly don't recall any. I don't want to say, under oath, that there haven't been some or whether that has been done because if it has it certainly hasn't fixed in my memory. I don't recall a single race since 1952, to my knowledge, where there have been any -- any real big racial issue involved in the election. Now, that's not to say this that you are not going to ever eliminate all of the prejudices of all the people, and I am sure that a lot of people in Nueces County will take the position that probably a lot of Anglo people down there and just say, I am just not ever going to vote for a Mexican-American. There are a lot of Mexican-American people say I am not going to ever vote for an Anglo if I have any choice, but I think those are in a small minority. I think our community has reached a stage of political maturity and by and large on its own without any traumatic force from outside the county. I think we have met our racial problems head-on in that county and we desegregated our junior college voluntarily before they started lawsuits about desegregation and we did the same thing on our

school system. We did the same thing on our restaurants and cafe and everything. Our county was a leader in that, in the state and we are proud of that. We are proud of the fact that we haven't had any racial violence down there because there has been no need for it. We just simply have not followed the pattern of discrimination that regretfully has been evident in other areas of the country.

Q To your knowledge, in the period that you are familiar with, have their been any lawsuits filed, to your knowledge, where the Mexican-Americans were suing claiming they were being denied the right to register to vote or denied the right to vote or denied the right to get on the ballot through some scheme or conspiracy of any sort?

A Well, let me see. I believe -- I don't want to misstate anything. I really don't recall anything on the line you asked, but I believe the lawsuit in which the federal courts outlawed the poll tax in Texas, if I am not mistaken, that came out of Corpus Christi.

MR. RICHARDS: It was the annual registration laws.

A Was it the annual registration? One of those lawsuits -- I don't know why it came out of Corpus, I guess it was just a good spot to make a guiena pig out of it, but I -- one of those lawsuits having to do with that originated in Corpus Christi and was taken up. Other than that, I don't think -- I don't remember any lawsuits down there having to do with anybody having any trouble getting on the ballot or anything pertaining to the election process. If there is any, I don't recall them.

Q As far as your elective offices other than State Representative, you have characterized some of them already and I would like for you to add to the record any Mexican-Americans that, I suppose we will limit it right now to the ones that currently hold office in the county. The elective offices in the county that you haven't already told us about.

A That are now holding public office in the county. Well, let's see, I mentioned Oscar Soliz, who is our district clerk.

Q That's a county-wide election?

A That's a county-wide election.

Q He won that against an Anglo, is that correct?

A Yes, sir. A gentleman by the name of Gallagher was in

the run-off. In fact there were several I think in the first primary that time, if I am not mistaken. I don't--I don't have the first primary sheet here.

Q That's okay.

A Then the judge of our County Court at Law Number 1 is Hector DePena. The judge of our County Court at Law Number 2 is Margarito Garza. Both of those are county-wide elections.

Q How many County Courts at Law do you have?

A We only have two now. I created a third one during the last session of the legislature and it will be effective January 1, 1975. We will have a third one going into operation.

Q Okay.

A And the judge of that court will be elected in the primary selection in this next year.

Q Okay.

A Let's see. Then we have Manuel Cantu who is one of two Justices of the Peace of Precinct 1. Precinct 1 covers all of the Metropolitan Corpus Christi which, in effect, is all of this Nueces County in District 48. So, it's practically a county-wide election. Fred Wilburn who is a Constable in Precinct 1 and the same is true of that. It's practically county-wide. He loses a few

precincts outside and the Western part of the county that is not in his precinct.

Q How would the ethnic population percentage break down in Precinct 1? Give it to us roughly or exactly, however you know it.

A In Precinct 1, I would say that the percentage of Anglo would probably be slightly higher and the percentage of Mexicans slightly lower than it would in all of District 48 for the reason that 48 includes Robstown which is heavily mexican population and quite a bit of the scattered population in the Western part of the County here is Mexican descent. So, Precinct 1 would probably, and I don't have accurate figures on that, but my judgment and my recollection would be probably a little bit higher percentage Anglo than the 48 would as a whole.

Q All right. Who else?

A Let's see. Then, one of our County Commissioners is a Mexican-American, Solomon Ortiz, and he is a fine young man.

Q Out of how many County Commissioners?

A One out of four of our County Commissioners.

Q How about your City Council?

A And I was trying to think, I was trying to think at the

courthouse. None of our District Judges are Mexican-American.

Q That's how many District Judges?

A And we have -- we have three in Nueces County and we have two that we share with Kleberg and Kenedy Counties. So, there are five sitting in the county altogether, but two of them include two other counties in their district. On the City Council today, we have a City Council composed of a Mayor and six Commissioners. The Mayor is an Anglo-American. The six Commissioners are two Anglo-Americans, one Negro, and three Mexican-Americans on a six-man City Council. On the School Board, we have one lady that was recently elected, Mrs. Dollington, and I don't have a list of all of the School Board here with me. There is Ortoria Vasques who's on the School Board. I believe he's in his either fourth or fifth six-year term on that Board. And he is a very outstanding member of the School Board. Doctor Clotilda Garcia is on the Delmar College Board of Regions on an elective process. I don't have this material quite as well organized as I would like to have. Domingo Pena was a leading vote getter in the Water Board election here in 1968 and was elected to the Board of the Lower Nueces Water

Supply District, although, he voluntarily retired on his own volition here a few years later.

And on the City Council, you can go all the way back. We have consistently had a pretty even division on the City Council. Incidentally, the members -- one member of our City Council now, who happens to be a black man, who is Reverend Harold Branch, that we are real proud of. He was just recently elected Second Vice-President of the Baptist Convention of Texas. Baptist General Convention of Texas. He is a Baptist preacher and an outstanding man in every respect.

Q What has the situation been generally with regard to republican opposition to -- in these offices we have talked about, State Representative offices that you have served in? Has it generally been republican opposition or generally not or how would you characterize that?

A It's been very spotty. In the School Board elections, the City Council elections, the Water Board elections, those are conduced at times other than the primary and general election dates. As a result, if there has ever been any democratic versus republican issues in any of those offices, I am not aware of it. I think those races are dominated and controlled by local issues and not by any political state-wide or nation-wide.

In the -- in our legislative delegation, there have been only spotty republican opposition. I was trying to think. I believe since 1952, I believe, I have only had one republican opponent, as best I recall. Opponent one time. Now, Travis Peeler, during his four-year tenure on one occasion had a republican opponent. Ronald Bridges, I know, had a republican opponent at one time. Charles Scoggins ran against Ronald Bridges at one time. The first time Scoggins ran, he ran against Bridges and lost and came back later and was elected. And I don't believe there has ever been a republican candidate for the State Senate seat down there in our State Senate, but the republican opposition has been, as I say, very spotty and I think again there was -- it's on an individual basis. I don't believe there has ever been any organized effort by a republican party or any other group to try to promote candidates for legislature. I think it's our -- I think our delegation has been just like having three different county offices, you know. If you want to run for one of them, you run for one and if you were a democrat, you would run in the democratic primary and if you were a republican, you would run under the republican primary if it was a time when they were holding primaries.

Q Let's talk about the degree to which the Nueces County delegation has been responsive to the needs of the total community including the Chicano community.

MR. GEORGE: I would like to object unless you are going to define what you mean by responsive.

Q You can answer that. We just need that for the record.

A Well, I talked to Oscar Soliz, who is our District Clerk down there and a good friend of mine. I asked him that same question the other day just out of curiosity to see if I was prejudice in my thinking on it, and Oscar, who had indicated that if you could arrange it, would be a witness in this case. And Oscar tells me that he is for Nueces County, he is opposed to single member legislative districts and I asked him and I said, Oscar, why are you opposed to single member legislative districts? He said because we can get better representation out of the group the way that it is set up now than we could ever with a single member district. Because I can pick up the phone and call any one of three of you and get immediate answers to any problem we have down here and have done

it on many occasions, I know that in the years that I have been in the legislature, I have had a very close affiliation with all of the groups in Nueces County. Some of my best friends are in the black community. Some of my best friends are in the Mexican community, and I know that as a representative representing the entire county, I feel like that those minority groups deserve more of my time percentage wise than the larger groups do and I have tried to be more responsive to their needs, and I think our entire delegation has taken that position. I think you can go back historically through our delegation and you will find that a great deal of our efforts were directed in the direction of trying to eliminate whatever -- whatever discriminations did exist in trying to bring about a community of interest there among all races, creed, and color that would make our county an example; and you can go back to the 1957 session of the legislature, for instance, right after the -- right after the decision came out on your school -- what was the school case.

Q Brown Board case?

A Brown versus Board of Education. I believe it was in the 1957 session of the legislature, as I recall, either '55 or '57 session where we had about 12 or 13

bills introduced in the legislature trying to preserve segregation in various ways. You can go back and check our voting record on that. Nueces County delegation voted against every one of those bills and we were in the little small minority there in the House. Those bills passed through this legislature overwhelmingly but you will find the Nueces County delegation voted against every one of them because we thought they were bad.

Q When you campaign now and during the period that you have been campaigning in Nueces County, do you campaign in and seek support of the Chicano and Black communities?

A I spend a great deal more time and energy and effort among the Black and among the Mexican-American communities than I do in the Anglo communities, yes.

Q Would there be any way to win in Nueces County if you did not have significant support from the Black and Chicano communities?

A Well, the mathematics -- if you go strictly by computer breakdown of the county. It is mathematically impossible to win without any Anglo or Negro vote because slightly over 50 percent of the county is Anglo, but that means you would have to get the Anglo community practically 100 percent and I just don't believe any living human being could do that. So, the practical answer to your

question is no. And that's, to me, that is the biggest one of the largest advantages of our multimember district is the fact that it does tend to eliminate political extremes in our county. It attempts to keep all of us close to each area because we realize that we have got to have support among the Anglo community, we have got to have the support of the Mexican communities. We have got to have support among the Negro communities. We need to get the support of all of them. At least cross the lines there if you hope to be successful, and as a result, I think, that we have -- have worked together with that in mind and we have tried to develop a program -- well, program is not exactly the right word, to develop a pattern of thinking that in a community of interest that is what is best for the county as a whole, without trying to narrow it down to isolated groups or wards and play one off against the other, and you can't do that in our county and win.

Q All right. There were several, or at least, I believe, several bills introduced this last session, 63rd, concerning bilingual education in our schools. I believe that's correct. What was the position of the Nueces County delegation on those bills?

A We were 100 percent behind every one of those bills and

have pushed them for more than this session. We were doing it two years ago and we were doing it years before that, trying to -- those are just portions of many bills that we have put in, and supported and in some instances sponsored trying to improve educational opportunities everywhere. I sponsored House Bill No. 946 during the last session of the legislature which was an attempt to meet the standards laid down by the Supreme Court in the Rodriquez case out of San Antonio on equal financial opportunity for every school child in Texas, and I sponsored the bill in the House and passed it in the House after a very bitter floor fight by a narrow margin and that again is addressing itself primarily to the needs of the minority groups in Texas, not just Mexican-American and Negroes, but all minority groups that are now not getting the same educational opportunities that others are getting because they happen to live, by accident of birth -- parents live in a district that does not have the financial resources to give them the same educational opportunities that a child living in a more wealthy district gets.

Q Were you supported by the rest of the delegation?

A Our delegation was unanimous on it and we have been unanimous through the years on all respects of

legislation in that area, that of legislative activity.

Q Have there ever been, to your knowledge, any significant number of complaints that you have received from members of the Mexican-American communities that you have not been representing their needs and that you have been unresponsive to the needs of that community?

A I have never received any such complaint from any area of Mexican-America, to the best of my knowledge, and I don't think the complaint would be valid if I did have one because I just don't believe that is true.

Q Speaking of the delegation as a whole, were you aware of any complaints made by the Mexican-American community or parts of that community against the delegation as a whole are now or in the past has been unresponsive of the needs to that community?

A It's going to be difficult for you to believe what I am about to tell you, but the records will bear it out. The biggest complaints enamating from the Mexican-American communities have been in criticism of the Mexican-American representative that had been elected in Nueces County. Tony Bonilla, for example, was defeated in his -- in a campaign for his second term in the House. He wasn't defeated by the Anglo community, he carried the Anglo boxes overwhelmingly and he was

defeated by the Mexican-Americans.

Q In favor of an Anglo?

A In favor of another Mexican.

Q That's right.

A But they were dissatisfied with his representation for some reason or other and it was -- and again, as I say, that was the most -- that was the only real example where I have -- that I recall where there was any real criticism among any members of our delegation for lack of responsiveness to the needs of that area of community activity and it was directed against a Mexican-American representative.

Q By what means are campaigns carried out in Nueces County in terms of television usage, radio usuage, and other media usage?

A Our campaigns for the legislature have been by standards in some other areas have been extremely modest in that there are three television stations in Corpus Christi. There are a number of radio stations and one daily newspaper. There is only one weekly newspaper of any consequence. That's the one in Robstown. The campaigns for the legislature are relatively inexpensive. I have been fortunate enough to be unopposed in any of the campaigns in many of the races I have made. I think the

most I ever spent in a campaign when I had opposition was somewhere around $4,000 or $5,000. To the best of my knowledge, as best I recall, about the most expensive races I have ever run for the legislature in Nueces County was one where I think about something -- somewhere in the vicinity of $10,000 was spent. And I don't mean to imply that $10,000 is not a lot of money. I think that's too much money to spend in a legislative race in Nueces County. I don't think you need that much money to win a legislative race in Nueces County and I have proved that in some of my races. And keep in mind, I am not a native of Nueces County. I came in there a total stranger in 1946 and whenever I first ran for legislature in 1952 I had only lived there about six years, and so I had no big initial built-in advantage in a political race in Nueces County and yet I have made the races on a very modest amount of money spent. I think the amount of money you have to spend in a race in Nueces County depends on how much energy and blood, sweat, and tears you will put into the race. If you are willing to get out and work, you don't have to spend much money. If you want to sit in an air-conditioned office and wait until the votes come in and count the votes, you are going to have to spend a lot of money.

So, I think the amount of money is in direct proportion to the amount of energy and drive and dedication that a candidate is willing to put into a race.

Q Do candidates for the legislature, in your experience, generally make use of the TV stations?

A In a very limited way. I would say the legislative advertising on the television stations down there have been -- has been very limited.

Q What about the newspaper?

A Now, the more newspaper advertising I would say relatively more dollar wise probably than on the radio and televisiion stations. That's not true if you move up into the State Senate seat or the U. S. Congress seat. They spent lots of money in those races. But it hasn't been true in the legislative races. Nueces County still has a lot of aspects of a country rural community although we are getting to be a fairly good size urban center now, there is a lot of the small town characteristics still evident in the community and a lot of the politicking that is done down there and a lot that I do is personal contacting. I go to meetings all the time. I am surprised that I ever get home because I go to something every night practically, you know, and I go to a lot of civic clubs and it is a

personal hand-shaking type community and you do it on an extent that if you do it and dedicate yourself to that phase of political activity, you can do it with a very minimum of expenditure of funds.

Q Do you have an opinion of the efficiency of the use of direct mail? Campaigns in terms of their effectiveness in getting votes for the guy that wants the votes?

A Well, yes, sir. I put out a mailing when I ran for the Senate in 1962. I put a piece of mail in the U. S. mail for every registered voter in the four county area. It was a tremendous job, as you can well imagine, and it costs quite a bit of money. I lost that race. I am not -- I don't blame losing the race on the fact that I put out the direct mailing, but I am convinced now as a Monday morning quarterback on that race and having gone back and studied and re-studied that campaign as to what I did that I shouldn't have done or should have done or didn't do, I feel like the money that I put into that direct mailing campaign I would have used much more effectively in some more areas.

Q Such as?

A If I had it to do over again, I would do it in other forms of spending more money, for instance, on a few helpers to go door-to-door and hand out literature.

It's impossible to do it by yourself. You have got to have help in order to do that sort of campaigning and being able to get a few more people to make shopping centers and hand out cards and literature on Saturday afternoon and other aspects of it. Even on newspaper advertising. I believe the dollars could be better spent in newspaper advertising than they could on the direct mailing technique.

Q If we were to assume that Nueces County were cut up into three districts and that you had single member districts, can you conceive realistically of a situation where a candidate would realistically have a chance to win in one of those districts without making the use of the broader media type things such as radio and newspaper?

A Well, of course, it would be possible. It's possible to win in a county-wide race without using any of those medias, but I would say that it is extremely unlikely if you are going to win a race in that county, either precinct race or, when I say precinct race, I am talking about precincts that include Corpus Christi. If you get out into some of these little rural areas like Agua Dulce and Banquette and run for Constable out in there, you don't use television on those races.

Q How do you spell those?

A Agua Dulce, A-g-u-a D-u-l-c-e.

Q Just like it sounds?

A Banquette is B-a-n-q-u-e-t-t-e. But I would say this, that the exposure that you would need on newspaper advertising and radio and television, I can't see a county the size of Nueces how it would appreciably change, if you had three single member districts or one multimember district in that county. You can't buy television time that is going to go into a third of the county. It's either on the air for everybody or not on the air for anybody and they are not going to give you any cut rates because you are only running in a third of the county. So, if you are going to have any television exposure then you have got to buy the same time that you buy for anybody else. So that I don't -- I don't see that breaking up the multimember district into a single member district in the county of the size of Nueces -- I just don't think it would make an appreciable difference on the cost of campaigning. It might change the direction of your campaign a little bit. It would do that, but basically the cost -- I think you can make a campaign in our county on a small budget now and still be successful. I don't believe you are going to see any substantial savings in it by dividing

the county into the smaller districts. It might concenivably do -- have the other effect. I could see how you might very well end up spending more money in one of these little wards because of the fact that the smaller units you break it into the more and more personal it tends to become and in many instances the more money you have to spend to make that contact.

Q Let me ask you one last question. In the unlikely event that a court should declare that Nueces County should be cut up into three districts, the court would obviously be faced with several options. They could say that the cutting up would immediately under court order or the court could rule that the legislature would be directed to reapportion in accordance with the court ruling at the next meeting of the legislature. On the upcoming elections, they would still be carried out under our present plan. Keeping in mind that the Constitutional Convention of Texas is coming up again the beginning of January and keep in mind that our elections would be held in May, what is your opinion on the amount of hardship that would be caused, not only in your county, but in other counties if you were confronted with a new redistrict situation in January or February or whatever time the court rule might come down?

A It's always more difficult to run in a new district. I would be less than honest with you if I didn't say that as far as I am personally concerned, I think it would be minimum. I think I have run enough races in Nueces County and I have been in politics long enough there, I think I know the county like a book, almost precinct by precinct. But for the average member of the legislature that has only been in office two years or maybe four years, or at the most, six years and whenever you get up to six years, you are covering practically all of the members of the House except for a handful who haven't had that broad background on it and you suddenly give them a new district or they have been running county-wide, and you narrow them down into a little area, they have got a whole new ball game, and if they really intend to get re-elected they are almost going to have to start from scratch on a completely and totally new campaign and a new type of campaign and a complete new thrust to it; and with the problem of creating a new complete new political image I think it would work an extreme hardship on them to order them into a single member district right on the eve of this constitutional convention. I think I can predict, with a fair amount of assurance, what will

happen to those people if that happens.

MR. RICHARDS: Note our objection to the predictions of what is going to happen.

A I think you are going to find that this constitutional convention is going to have a lot of absenteeism in it for members who are in that category that they are going to be up there campaigning for re-election rather than down here trying to re-write the Constitution of Texas, and I think that would be disastrous for Texas, as a whole, if that situation comes about. I would hope that the court, if they do feel that this county is one that should go to single member district and which, obviously, from my testimony I do not think it should. I think we have demonstrated a clear case here of where there has been no pattern of discrimination, no way that the multimember districts in this county have been used to discriminate by sex or creed or religion or color or party or any other way. And for that reason, I don't see that there is any evil in our multimember districts and I think there is a lot of good in them. I think the good far outweighs the evil on our side. I am not arguing about any other county

now, just about Nueces County, because that's the one I am familiar with in some detail. So I would hope that the court does not see it that way and does see fit to order these districts. They would give us the opportunity at the next session of the legislature to go to single member districts. We can do it in the legislature if we are told that we must do it. Every time the court has told us at our legislature collectively and it's hard to get collective action in the legislature on these things but every time the court has told us that we must move in this direction, we have moved. Now, we haven't always moved in the way that some of them would like for us to move, but I think that if we had an opportunity to do -- take legislative action on this, that if the court says, we think multimember districts is unconstitutional in Nueces County and we are telling the legislature to do it at the next session, I don't think they would ever have to do it. We would do it at the next legislature. And do it in a way that is acceptable to the court.

Q Mr. Hale, I want to think you for giving your time and effort for this information to the court.

A Let me say one other thing, too, and I really -- I got off on your question about hardship and the next time.

If the court is going to, on its own, order single member districts I would hope that they would at least delay those past the next election and let us at least get by this next primary because we are talking about only a few months until the next primary and with this Constitutional Convention, we are all going to be engaged in in January. I have made on the average one trip to Austin every week ever since the legislature adjourned about the first of June working on nothing but planning and trying to set up this Constitutional Convention and get it going and we are going to have our hands full on it this next spring and it would -- it certainly be a real handicap for us to have to concentrate on that at the same time having to fight a re-election campaign in a totally new district, and I would hope the court would not put us in that situation even if they see fit to order single member districts.

MR. YORK: Thank you, sir.

EXAMINATION,

By Mr. Richards:

Q Well, let's see, Mr. Hale. The last legislative session had a crack at this issue of cutting up the rest of the state into single member districts, too?

A Yes, sir, we did, but of course, we were not under a court decision that multimember districts were unconstitutional. As a matter of factor, the U. S. Supreme Court, as you know, is now in that case and said there was nothing discriminatory about multimember districts per se, that in the absence of some clear proof of use in that direction that there was nothing wrong with single member districts.

Q Are you aware that while you were in session you were, in fact, operating under an extent court order which said: One, that Dallas and their county districts were unconstitutional and had implemented a new plan and, two, had said that, in fact, the entire state redistricting plan was unconstitutional. That that was the operative court order throughout the term?

A Yes, sir, but we also knew that case was on appeal.

Q All right.

A And we suspected it would be reversed and it was reversed.

Q So, it was your prediction and that's why you held off was the fact that it was in the appellant process because you, as a legislator, decided you would rather gamble on the judicial outcome of that redistricting, is that right?

A No. When you put it back on an individual basis, no, sir, that's not true. What I am simply saying is that it's -- the legislative body is a peculiar animal and you have got 150 members in the House and 31 in the Senate representing such a variety of background of cultures, political philsophies, geographies, economics, and that to try to move them in a given direction is extremely difficult, and if we had had a court order to the effect that you must go to single member districts, we would have passed a bill on single member districts just like in 1965 when they ruled our Reapportionment Act unconstitutional and said you have got to redo it, we redid it. We didn't particularly like it and we had -- we had a lot of arguing and debating back and forth and we didn't come out with a bill that everybody liked, but at least we did the job as best we could under what we thought was the necessity of that court order. And I think the --

Q What you're really saying is that it is going to take a court injunction mandating the legislature to redistrict in a single member district before the legislature will do it?

A I think that as far as Nueces County is concerned, my position as a member of the legislature has been, is today, and will be tomorrow, that our county and the people therein, including the Mexican-American, Negro, and other minority groups.

Q I believe you are getting around to my question.

A Are all better off under our present multi-member district arrangement than they would be under single member districts.

Q Let's take a stab at my question now.

A Well, I am coming to your question.

Q You answered a moment ago the legislature will do it but only if it is under a specific court degree, wasn't it?

A I think that as far as the single member districts, my position would be, in Nueces County, that if the decision is left to us as a legislature, our judgment is, has been in the past and is now, that for Nueces County multimember districts are the best. Therefore, if the court leaves that judgment to us, we will leave

it as a multimember district. If the court says we are not going to leave that judgment to you, we think that judgment is wrong, that you must go to single member districts, then we will go single member districts. We will obey the court's decision on that, but the court has never yet told us that our judgment is wrong as far as Nueces County is concerned in our contention that multimember districts are the best.

Q Then we are to understand from the testimony before as to this question was limited to Nueces County and you were referring only to Nueces County?

A Well, I am -- I don't know what the question went before. What was that?

Q Well, we have been at this for awhile now. You told us, I thought, that the court ought not to implement any single member districts, that they ought to leave it to the legislature?

A No, I don't know that I did say that.

Q What did you say?

A I would say, I think, that, I think, that it would be preferable for the court to allow the legislature to do it if it feels that the changes should be made for the reason that I think in the legislature you will find a better cross-representation of the conflicting

political philsophies and conflicting views of the people that you would come up with a product that would more nearly fit the needs of the state than you would for the court to do it itself. I feel it would be better for the legislature to do it. I think it would be more receptive to the public if the legislature did it. Sometimes we need a little prodding to get us to do things and nobody recognizes that more than I do as a long-time member of the legislature.

Q Am I correct that it has been customary in the past, at least according to the testimony in previous cases in a county's delegation or in a district's delegation, within that delegation agreed upon a plan for reapportionment or redistricting that that then was accepted by the body as a whole?

A Well, it's certainly persuasive. I can say this, that we have had some debate on Reapportionment Bills where that certainly wasn't true. For example, if you will check the House debates on the last Reapportionment Bill, you will find in there an amendment, which I offered, to the Reapportionment Bill in which I was violently objecting, and my speech is tape recorded over there and is on tape, and I was violently objecting to the way they did Nueces County in the last

Reapportionment Bill, but I was defeated on the floor of the House. Even though our delegation wanted it a different way, we didn't get it that way.

Q This was the one later declared unconstitutional by the Texas Supreme Court? The 1972 bill?

A 1971.

Q '71, yea.

MR. YORK: Another good prediction.

Q Was that the basis of your prediction?

A No, no. Not on our county, but I was -- I was criticized in one of these books put out by Capp, what was the one shed on the Alamo, because of my proximity to Mr. Mutscher, and I was quoted in there as having admitted, in private, that the Reapportionment Bill was an atrocity yet I defended it like it was the work of Moses on the floor of the House when the record reflects that I voted against it and I voted for practically every amendment to it, and I offered one amended myself and got on the floor and really castigated the Chairman of the Reapportionment Committee on some of the content of that bill, and Mr. Capp said I defended it like the work of Moses.

Q You may have done this so I am clear, I take it from your recitation of the history of Nueces County the first republican to ever be elected in a general election to the legislature was Scoggins in '66, as a consequence of a general election?

A Well, I won't say he was the first republican ever been elected. In recent time in our legislative delegations, he was the first one, yes, sir.

Q I am not carrying you back beyond the point of your own recitation. I take it that the first Mexican-American to have been elected in that delegation to the legislature was Tony Bonilla in '64?

A That's correct.

Q All right. So, I am assuming that just because of, really, by the absence of other comments, the only other Mexican-American to have served in the delegation was Carlos Truan, first elected in '68, and currently in office?

A This is true.

Q And also assuming, I suspect, accurately that none of the legislators have been black from that district?

A That is correct.

Q I take it that Bonilla, you told us, was defeated in the democratic primary by a Mexican-American by the name

of Gonzolas?

A Yes.

Q Gonzolas, in turn, lost to Scoggins in the election?

A Lost to Scoggins in the general election.

Q Was he defeated in the general election of '64? I take it he was elected in the special election of '63. He must have run a general against either Bonilla, Kalger, or Hale, or Peeler. I assume he didn't run against you?

A He ran against Bonilla, I believe.

Q In '64?

A I believe Bonilla beat him in '64, if I am not mistaken.

Q Did he, right off the top of your head, fine, if you don't we can leave blank and you can write it in the record.

A I am sure it was Bonilla and Scoggins in that race.

Q I have since -- you are so adamant about District 48, let's talk about District 41. Where does it run? Does it run all the way to Hidalgo County? Where does it run, I can't get that straight in my mind.

A 41 is represented by Leroy Wheating and it goes North of the county and takes in San Patricio County and Aransas County.

Q Goes to the North, all right.

A I believe, and maybe one other county. I am not sure. He's got San Patricio, Aransas, and a little part of Nueces county.

Q But this district runs North, is that right?

A Goes to the North of Corpus.

Q Who's in the district that runs up to Kleberg County now, to your South?

A Greg Montoya, Representative Greg Montoya, represents that district and it includes Kleberg County and, let's see, going South from Kleberg, I believe, I believe he includes Kenedy County and part of Hidalgo County.

Q That's the district he picks up?

A Yeah, I think he picks up part of Hidalgo County there. I think you all took McDonald's deposition here the other day.

Q I was not present.

A He represents part of Hidalgo County.

Q Hidalgo County is actually cut into three different pieces, as you recall?

A I am not sure. I was thinking they were similar to our situation where part of the county had been taken off and the rest of the county is multimember. I could be in error on that.

Q Okay. I would assume that you would agree with me, from looking at the complexion of this delegation, the incumbency is a mighty strong factor in excess of the candidates there. Have there been any incumbents unseated in recent times?

A Yes, sir, there have.

Q Who?

A Well, let's see.

Q Other than Scoggins?

A Gordon Forsythe was defeated for re-election in 1958. James Kalger was defeated for re-election at the end of this third term, whatever that date was. I believe about 1966.

Q That would have been by --

A Bridges.

Q Bridges. Okay. I got you.

A Let's see. Tony Bonilla was defeated for re-election on the second term. Scoggins was defeated for re-election on a second term, or what amounted to a third term.

Q That would have been Farenthold defeated Scoggins in '68, is that correct?

A That's correct. And let me see. Curtis Ford did not get beat for re-election. However, after he ran for

the Senate and got beat, after two terms, and then he later ran for the House again and lost. So, he wasn't -- he was not running for re-election, but it was an ex-member that got beat.

Q He wouldn't make the comeback that you and Bridges made?

A He didn't make the comeback that Bridges and I made, true, and surprisingly enough, it's a lot more difficult to win a race after you have lost one than it is to start out from scratch. Scoggins overcame that hurdle though. Scoggins lost one and came back and won one. After having served a time -- let's see if there is anyone else that has been defeated.

Q What has been the pattern in terms of the incumbents? Have they typically been opposed or unopposed to the, say, ten years? How many times have you drawn an opponent after your --

A I can't explain this and I say this with all modesty, but I am one of the few representatives down there who has consistently been able to get by without an opponent. I had an opponent when I first ran in 1952. I had one in 1956 and then that was all until I ran for the Senate in '62. So, that's twice that I had opponents in 10 years. Then, when I ran in '64, of course I was on the outside. I had a whole bunch of opponents then,

and then in '66 I had one opponent, and I haven't had one since. So, I have had four opponents in, what, 20 years, but you look at all the others. For instance, Bridges had an opponent every time he ran down there. Scoggins had one every time he ran, Bonilla had one every time he ran, and Travis Peeler, I believe, had one every time. Travis might have gotten by once without an opponent. Most of the other representatives had had consistently opponents.

Q Different opponents, of course?

A Yes, in the primary and occasionally a republican opponent. There have been a few republican candidates for the legislature through the years but, as I said earlier, it was very spotty and more or less on the individual basis, apparently. Again, sort of like in the democratic primary -- somebody just decided they wanted to run for legislature and run as a republican, so they just announced and ran.

Q But I take it the Republican Party has not been regularly fielding, regularly fielding full slates of candidates for the legislative places, then?

A No, sir, they are certainly not full slates and to the best of my knowledge, I don't think they have ever fielded anybody down there. I think the ones that ran

are ones that just decided that were going to run and went out and started soliciting votes.

Q On their on?

A On their on, I think. Although, I am not privileged to the decisions of the Republican Executive Committee in that county but, from all outward appearances, it was just isolated cases where someone wanted to run and started running.

Q How many registered voters are in the district now, did you say?

A Well, I didn't say because I am not sure. Let's see. Seems like to me this last time, I believe, we registered, registered voters you are talking about now?

Q Uh-huh.

A Seems like to me we registered somewhere between 70 and 100,000, I believe, somewhere in that area; but I could be off on that. I am not just -- I believe the county population in the last census was 237,000, I think. Does that show on here?

Q Yea, it should show on there.

A Yea, 237,554.

Q Then there are about 18,000 out in the legislative district, is that right.

A It's roughly about 18,000 that was taken over and put

into Leroy Wheating's district, in District 41 out of the county. So, that would leave, roughly, about 200, round figures, about 220,000, about 218,000.

Q And your estimate of those is between 90 and 100,000 registered voters?

A But that registration figure probably includes the whole county. It is put out by the Tax Assessor Collector and he would register the whole county, I think.

Q Yes, I expect so.

A But I am just shooting from strict memory on that voter registration. Seems like to me, I vaguely remember seeing a figure last year about the total registration being somewhere better than 90,000. Does that sound about right on 237,000? We ought to get a 100,000 registered, shouldn't we?

A I think I helped run a registration drive down there a couple of years ago and it was a state-wide drive concentrated down there and seems like to me we were shooting for 100,000. I am not sure whether we went over.

A Apathy is the worst evil of good government everywhere you go. It's a shame.

Q You were discoursing on single member districts in the

necessity of using tbe media. Are you aware of a legislator by the name of Jim Mattox, a legislator in Dallas County?

A Oh, I know Jim, yes sir.

Q Are you aware that he beat an incumbent in Dallas County in a similar district without any use of media to any extent?

A I probably knew who he ran against -- I don't even remember now who he ran against.

Q He ran against Sam Coasts, C-o-a-t-s.

A C-o-a-t-s. I remember Coats, who was a one term member of the legislature and I understand, I was told that Coats didn't even live in the district that he was running in when they got into that single member district and that would be a handicap, I would think.

Q And you and Joe Salem live in the same block, is that correct?

A Yes, sir.

Q In what census tract?

A Well, let me see.

Q Can you just tell us?

A In Census Tract 27.

Q That's all I have. Thank you.

MR. RICHARDS: I am reserving other cross until some later time.

MR. YORK: Well, we disagree to that proposition. We feel like adequate notice under the terms of the way these things have been set up was given.

MR. GEORGE: I have one question.

EXAMINATION

By Mr. George:

Q Mr. Hale, have you ever had a republican opponent?

A Yes, sir. One time in 1964 when I was trying to get back into the House. I had opponents in the Democratic Primary and also in the Republican -- general election. That's the only time.

MR. GEORGE: That's all I have.

(Witness excused.)

STATE OF TEXAS |

COUNTY OF TRAVIS |

I, Dwain Coffey, Notary Public in and for Travis County, Texas, do hereby certify that the facts stated by me in the caption hereof are true, and that the said witness did make the above and foregoing answers in response to question propounded as shown, and that I did, in shorthand, report said proceedings, and that the above and foregoing typewritten pages contain a full, true and correct transcription of my shorthand notes taken on said occasion.

WITNESS my hand this the 26th day of November, A.D., 1973.

_____

Notary Public in and for
Travis County

* * * * *

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

WHITE	I	
VS.	I	CA NO. A-71-CA-143
REGESTER	I	

A P P E A R A N C E S :

MR. GEORGE J. KORBEL
Mexican American Legal Defense and
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San Antonio, Texas, 78205

COUNSEL FOR PLAINTIFF

MS. ELIZABETH B. LEVATINO
Assistant Attorney General of Texas
Supreme Court Building
Austin, Texas

COUNSEL FOR DEFENDANT

Deposition and asnwers of TRAVIS PEELER, who resides in Nueces County, Texas, taken herein by the counsel for the Defendant, before RONNIE VERNON, a Notary Public in and for Nueces County, Texas, on the 27th of November, A.D., 1973, between the hours of 4:00 p.m. and 5:00 p.m., in the Commissioners Court Room, Nueces County Courthouse, Corpus Christi, Nueces County, Texas, in accordance with the following stipulations and agreements:

IT WAS AGREED by and between counsel for Plaintiff and Defendant in the above numbered and styled cause that all formalities, including issuance of notice, are waived specifically, and that the oral deposition of TRAVIS PEELER, may be taken herein forthwith before RONNIE VERNON, a Notary Public in and for Nueces County, Texas, said deposition being taken with the same force and effect as though all requirements of the statutes and rules had been fully complied with.

IT IS FURTHER AGREED that no objections need be made by any party at the time of taking said deposition; except objections as to the form of the question and leading questions or the responsiveness of the answer; but if and when said deposition or any portion thereof is offered in evidence on the trial of this cause by any party hereto, it shall be subject to

any other legal objections, such objections to be made at the time of the tender, the same as though the witness were on the stand personally testifying.

IT WAS AGREED BY AND BETWEEN COUNSEL and the witness, that the signature of the witness hereto is waived.

IT WAS FURTHER AGREED that after said deposition has been returned into court in accordance with these stipulations and agreements, it will be treated by the parties hereto and may be used herein with the same force and effect as though all statutes and rules relating to the taking and returning into court of depositions had been fully complied with.

MS. LEVATINO: We will stipulate that the signature may be waived and objections to questions as to form and substance may be made at this time.

MR. KORBEL: That is fine.

TRAVIS PEELER,

having been first duly examined, cautioned and sworn upon his oath to tell the truth, the whole truth, and nothing but the truth, testified as follows:

E X A M I N A T I O N

BY MS. LEVATINO:

Q State your name, please.

A Travis Peeler.

Q Are you a resident of Corpus Christi?

A Yes.

Q How long have you lived here?

A Eighteen years.

Q You are an attorney?

A Yes.

Q Practicing in Corpus Christi.

A Yes.

Q You have served as a member of the Texas Legislature

from Corpus Christi for four terms?

A Yes.

Q What years were those terms?

A I was elected in 1960 and served until '68 and did not run for re-election.

Q Were you involved in politics in Nueces County prior to 1960?

A Yes.

Q In what areas?

A I worked to some extent in a campaign for the Texas House of Representatives and I worked in a mayor's race.

Q When would you estimate your political work began?

A In 1958.

Q You are presently the Nueces County Democratic Executive Chairman?

A Yes.

Q And you were elected when?

A 1972.

Q Mr. Peeler, when you ran your campaign for the House of Representatives, beginning in 1960, did you contact any specific group for securing their support prior to your determination that you were going to be a candidate?

A Yes, I sought out different groups, including a

group of business men here in Corpus Christi and the founder of the American GI Forum, Doctor Hector Garcia, and labor union leaders among others.

Q So you really contacted a number of groups in the area and informed them you would like their support after you announced for your candidacy?

A Yes, diverse groups.

Q There was no group that was slated as the group that you would go to before you announced?

A There was a downtown businessman's group of executives and so forth who supported, and I assume perhaps still do support, local candidates on occasion.

Q Was it essential that you have that group support to win?

A No, it was not. Some of the candidates for the legislature did not and never had that group support and I did not have it the last time.

Q Would it be fair to say that there is no one or two slating groups that determine who the candidates will be prior to their filing for candidacy?

A That is right.

Q There are groups that support a candidate after they have filed?

A Yes, they do support them afterwards.

Q Would it be fair to say that these groups have supported both Anglo and Mexican-American groups since you have been in Corpus Christi?

A Absolutely.

Q Can you give me an example?

A They supported me once, they supported Tony Bonilla, a former representative.

Q Who are you talking about?

A The downtown businessmen's group, for a lack of a better term.

Q Do they also endorse candidates in local races and county races?

A Yes.

Q And they also supported Mexican-Americans as well as whites?

A Yes, members of the NOW Party, for example, they supported as a group, all six of them. There were three Mexican-Americans, one Black and two Anglo.

Q Did you announce your candidacy in neighborhoods which would be termed Mexican-American as well as Anglo-American groups?

A Absolutely. It is necessary, when you have a diverse population such as we do have in Nueces County, to talk to different groups. Mexican-

Americans are concentrated in certain portions of the city and county and one running for office needs to seek out different groups to try to achieve some understanding before, if he can.

Q Would you say from your experience in political systems that the Mexican-American candidates seek out support and help of Mexican-American groups as well as white leaders and groups?

A Mexican-American candidates?

Q Yes.

A Yes, I would say most definitely.

Q Would it be fair to say that candidates must appeal to the entire area and leaders with various identifiable segments of that society?

A That is true. I don't think a candidate could ignore -- he could not ignore, for example, the Mexican-American portion. He would have to seek their support. Conversely, a candidate of Mexican-American heritage could not ignore the Anglos because he will have to have their support as well.

Q Would you say this would continue when the candidate, if elected, was elected, and would be a factor in determining how to vote?

A It has been a factor and has, I think, affected the voting patterns of the representatives from

this county.

Q Could you give us a specific area where you see this illustrated?

A Yes, I remember a very conservative representative from Nueces County and how he voted as to the abolition of the poll tax. He voted for it, however, his conservative philosophy would have prevailed otherwise, but he voted to abolish it.

Q In your experience in the Texas Legislature and from what you have observed from being Democratic Chairman, would it be issues that they voted for that would be of a concern to Mexican-American groups?

A Yes, as a matter of fact, the fact that representatives do represent the entire county, I think, makes them more sensitive to the needs, for example, of Mexican-American citizens here. I know that politicians don't just seek out one segment of our society here in this county, because the Mexican-American is a substantial amount of the population and candidates have to have some sensitiveness to their needs.

Q Have you, as a legislator, or as well as Chairman of the Democratic Party, had dealings with regard to how their delegation was responding?

A On occasions, I have known of instances where the leaders of the Mexican-American portion of our population have criticised individuals in the delegation. I don't remember any instances of Mexican-American leaders criticising the delegation as a whole, I have never heard of anything like that.

Q Just for a moment, Del Mar College is a Junior College within this area, is that correct?

A Yes, it is a Junior College.

Q And that college is integrated?

A Yes.

Q Do you know approximately when that college was integrated?

A I would not be able to give you the year, but I know it was before the Brown case and it was done by the Board of Regents of the college.

Q Do you know of any instances within the last ten or twenty years in which the city council, as a governmental body, has authorized any kind of discrimination with regard to the use of public facilities by Blacks or Mexican-American people?

A No, I do not. I came here in 1955 as an Assistant City Attorney, and I know of no instances where authority was used by the city to, for instance,

let black persons use the gold courses or any other facility.

Q And are the public facilities generally integrated as to their use?

A Yes, with this reservation. I cannot direct myself to anything regarding the integration suit filed by Mr. Cisneros against the Corpus Christi Independent School District. I don't have a knowledge of it. In other matters, I would say there has been no exclusion.

Q From your experiences as Chairman of the Democratic Committee and as a past political candidate, what type of activity have the Mexican-Americans undertaken in the party?

A A significant part of the Democratic Party, for example, people, about a third or better, at least a third of the precinct chairmen are Mexican-American. Several are Black. A substantial portion of the delegations to the county convention are Mexican-American.

Q Was this true prior to the county convention of last year also?

A Yes, Anglos, as I have been paying attention to party politics around here since 1964, I would say that Mexican-Americans have made up a substantial

amount of our county convention and delegates and delegates to the State Democratic Convention, but I can't speak about the Blacks there, because I don't know.

Q Has it ever been brought to your attention or been any concern to you or have you heard any criticism of the Democratic Party structure that would reflect an attitude of wanting to keep the minority groups out of the process of the Democratic Party?

A None that I know of. I heard of some criticism some years ago from Mexican-American leaders about the party structure, but none in recent years.

Q Would it be fair to say that the activities of the Mexican-American groups in Nueces County, as far as the Democratic Party is concerned, have been open and visible as well as the white participation?

A Yes, and no. Of course, in some places in the county and the city, participation is more vocal. You have, for example, people in some of the south side precincts were a large turnout occurred last year in precinct conventions. Possibly it related to some extent to conflict within the party as to who was to be the nominee. Some of it relates to the school integration suit, Cisneros versus the

Corpus Christi Independent School District.

Q Okay. When you speak of the south area, you are talking about the area which is primarily white?

A Yes.

Q Was there a high turnout in the Mexican-American precinct elections?

A I don't know. I didn't hear any reports.

Q But going back to my previous question --

A Excuse me. It depends on the leadership, you see, and getting the people worked up and wanting to attend. There was not really much last year to get the Mexican-American people among the leadership to get them to really go all out to participate in the precinct and county elections.

Q Going back to my other question, would it be fair to say that the Mexican-Americans have been active in the Democratic Party and have never been discouraged from working in the Democratic Party structure in Nueces County?

A That is right. As a matter of fact, the Twentieth Senatorial District, which is composed of Willacy County and Bee County and Nueces County, our caucus last year got four delegates to the National Convention. Among those was Paul Montemayor, Francis Farenthold and two Anglos. There were also

some delegates that were chosen at large and among those were Doctor Hector Garcia and as an alternate Rosa Garcia. You see, there has been a participation.

Q When a person goes to the National Convention, does he pay for his own transportation and lodging and so forth?

A Yes.

Q Would it be fair to say that at times people that wanted to be a delegate have chosen not to do so because of the expense?

A Yes, it is substantial. I imagine it would cost five to six hundred dollars for a person to be a delegate and attend.

Q And this would apply to white, black, brown, whatever?

A Yes.

Q Okay. And your campaigns and in campaigns which you have observed, have there been any issues which may be overtly racial in nature?

A In none of the campaigns of which I have been involved.

Q There has been no slurs or sayings like don't vote for him, he is Mexican-American, or do vote for him, he is Mexican-American?

A That is right. None of the campaigns of which I have been involved -- it is hard to say. There have been campaigns around here, one or two that -- well, how do you know?

Q Taking Nueces County as a whole, would it be -- what would be your opinion with regard to the way the people react to a Mexican-American candidate? Is it a fact that if he is a Mexican-American, is that going to be a determining factor of whether or not they will vote for him?

A Well, I know and you know that there are people with whom that is a factor. How big a percentage that is, I don't know. There are those people and there are also those people in this community, Mexican-American people and good people who will vote for a candidate who is on the ballot simply because he is a Mexican-American, even though you have an Anglo on the other side who has their best interests more at heart.

Q Would you say the vote is as the way it comes across free of overt racism?

A Yes. In the area of the plants, a number of Mexican-Americans who are Republicans have supported the other party candidates. In fact, last year, an effort was made by the Republicans to recruit

Mexican-Americans and a woman, whose name I can't recall at the moment, and she is from California, a businesswoman, who was appointed to a position in the Nixon administration, came down here last year.

MR. KORBEL: Mrs. Banuelos.

A And there were receptions for her by different ones and it seemed to me to be a strong effort to recruit a Mexican-American for a representative and it was a good effort.

Q So would it be fair to say this is a Democratic Party county?

A Yes, it would be fair to say.

Q When you were running, did you employ the use of radio, television and newspaper media?

A Yes.

Q Did you employ mail-out or did you go door to door?

A Not much mail-out, because that is expensive. I did some canvassing of shopping centers and that sort of thing.

Q If this district were divided up into three single general member districts, would, in your estimation, a candidate be able to ignore the use of any particular media?

A I don't think he could ignore the use of media. I just don't see how he could. You can't contact a representative district -- there would what, about 75,000?

Q Right.

A You can't get around to half that many people in a course of a campaign with personal effort, or even a valiant effort, I don't think, so I don't see how a candidate could totally ignore the media. You have to get to people, you know, to get your name to them. Just meeting a fellow once and handing him a card doesn't get his vote. You have to get them talking about the campaign and that sort of thing.

Q You have said that you felt that the delegation as a whole attempts to represent the district as a whole and the various elements of that district. What do you think the effect of a single district, or three different ones in this case, what effect would you think it would have in this situation?

A I think it would fragment this community more than it is. I think it would leave us one representative who would represent the interest of the Mexican-American, one representative who would be elected from Anglos, and whether he would repre-

sent the Mexican-American, I don't know, and another who would be elected from a part of both and I think under our present system members of the minority groups receive more attention to their interests and welfare than they would under a fragmented system. I am not opposed and I think it was right to have single member districts in Bexar County, Dallas County and Harris County, but I don't see it here in Nueces County. We are not a metropolitan area. I think the interest of the Mexican-American people, interests that I have tried to preserve and protect, would be harmed rather than helped by single member districts, and I believe that fervently.

Q It is true that Mexican-Americans can be and have and will be elected from a multi-member district?

A Yes, we have had several. We have had some representatives from here who are Mexican-Americans. In the last few years we have had also one of Lebanese ancestry. We have had a woman, and a rather outstanding one, I might add.

Q So the delegation -- is it your opinion it is sensitive and must respond to the delegation of the Mexican-American?

A That is right.

Q It would be possible, if cut up into three member districts, it would be possible for one or two to completely ignore whatever the interest of the Mexican-American might be?

A I think that is possible, yes.

MS. LEVATINO: I think that is all the questions I have.

MR. KORBEL: I have just a couple.

E X A M I N A T I O N

BY MR. KORBEL:

Q Now, you admitted, and I think correctly so, that there is a racial factor in elections in Nueces County, is that correct?

A Yes.

Q And would it be fair to say that in the past Nueces County has had numerous instances of discrimination against Mexican-Americans and Blacks, both institutionally and privately in all segments of life?

A Your question is pretty broad. Certainly, in a private area, certainly there has been discrimination.

Q In the United States District Court proceeding

in the school case --

A Yes, and I said I could not comment on that case, because I don't know that much about it.

Q Are you aware of the fact that until the '60s, that black only schools were maintained in Corpus Christi and children were bussed to those schools?

A Until when?

Q Until the '60s.

A I don't believe children were bussed to the black schools that late.

Q When do you think that ended?

A The black only schools, I am sure, into the '60s, I know, because I visited some of them. I think those, you know, and I don't know all of the background and I can't speak authoritatively, but, for example, Solomon Coles is over here in the black community and I could not tell you if the freeway was put in where it was to segregate the black people. I could not tell you that, because I don't know. It was an almost all black school, yes.

Q What about segregation in the municipal hospitals?

A I don't know anything about that.

Q The District Court found maintenance of separate wards for Mexican-Americans, and if a District

Court found that, you would not disagree with that?

A As a lawyer, I would not disagree with a court decision, no.

Q And are you aware that in Corpus Christi a separate Mexican-American school was maintained?

A Yes, at one time.

Q And there was one also in Robstown?

A There were elementary schools within the area of Corpus Christi populated predominantly by Mexican-Americans and those schools were, of course, overwhelmingly Mexican-American.

Q In any case, there have been instances of discrimination and I suppose we could add also real estate covenants.

A Those had not been enforced. Even title companies have not paid any attention to those in years, not since Shelly versus Quinton. I have not seen it and the biggest part of my work in law practice is real estate and estates and probate matters and that sort of thing. I don't remember seeing one of those covenants or a record of one after 1945. They all go back into the '20s and '30s.

Q But they were common in the immediate postwar years?

A Do you mean after World War II?

Q Yes.

A Yes.

Q Would you say that they had an effect on the pattern of residential segregation of Corpus Christi today?

A Yes, I expect so.

Q Do you suppose that effect continues over to today?

A I don't know how you mean.

Q Just suppose -- do you suppose that effect is enitrely evaporated?

A No, I could not say that.

Q Are you aware of any instances in the '60s through '72, of landlord refusing to rent to people because they were Mexican-American or Blacks?

A I don't know of any, but that is not to say that they didn't exist, but I don't personally know of any.

Q Would you say then that these past instances of discrimination against Mexican-American and others that we have not discussed would have an effect on the Mexican-American today and on the Anglos too?

A How do you mean?

Q On the views of Anglos toward Mexican-Americans, let's say. Past acts of discrimination by Anglos

against Mexican-Americans, does that have an effect on Anglos towards Mexican-Americans today?

A Yes, I am not a psychologist, but I suppose it does. It also has an effect on some Anglos who feel as I do that because of the acts of discrimination of some Anglos, we have got to try harder to eliminate discrimination; try harder to atone for these things.

Q But we can agree there are at least a certain percentage of Anglos who would vote against a Mexican-American in favor of an Anglo, no matter what the race?

A Some Anglos that would vote against a Jew, yes, a German, or whatever, but also conversely, --

Q But Mexican-Americans and Blacks are the individuals who have received the most discrimination in South Texas?

A That is right. They are repressed, I can't argue about that.

Q Would you say this repression has an effect on their effect in South Texas?

A Yes, but it is getting better and we are making progress.

Q But it does have an effect?

A It does in some counties in South Texas. I don't

think it does here, but down below us, it probably does. We have been fortunate to have some effective leadership among the Mexican-American people like Doctor Garcia in this area.

Q How do you account for the fact that only two Mexican-Americans have been, since reconstruction, have served?

A You are limiting it to since reconstruction?

Q Well, --

A Well, in the last twenty-five years, this has not been the case. You have not eliminated this by lumping it, but you are perpetuating it.

Q Doctor Garcia feels on occasion, he feels that 90 percent of the Anglos vote along racial lines, but you would not put it that way?

A No, I would not. I feel it is issue on issue and person to person. Well, you take -- well, Doctor Harold Branch, a black man, is a member of the city council. Doctor Branch carried most of the south side precincts of Corpus Christi. He could not have won otherwise. Well, there are you, it depends on the issue and candidates involved. I don't think you could make a blanket statement that 90 or 95 percent or 40 percent of the Anglos vote against somebody just because he is black or

a Mexican-American or whatever.

Q We had testimony from the former Democratic Chairman of Lubbock County and he said he would put the percentage of Anglos -- about 25 percent of the Anglos voting along racial lines.

A It depends on the issue. You are comparing apples and oranges. You take a candidate, and I am not trying to tell you prejudice doesn't exist, you know that.

Q Yes --

A But you take a candidate that attempts a broad appeal, and take for example, Eduardo DeAses, who ran for a District Judgeship last year, and he made a significant -- got a significant number of votes on the south side and carried some of the precincts there. Mr. DeAses is a man of ability and intelligence and he appealed. I am sure there were some people who voted against him because of the fact that he was a Mexican-American, but I am also sure there are Mexican-Americans who voted for him because he was Mexican-American and his opponent was Anglo.

Q All things being equal, if you had two candidates, one Mexican-American and one Anglo, would you say the Mexican-American would start at a disadvantage?

A You are trying to make blanket statements, or get me to make blanket statements. He starts out as a Mexican-American candidate and obviously starts with some disadvantage on the south side, but he starts with a terrific advantage too, you see, because, you see, 45 percent of the vote in this county is going to be Mexican-American. He is going to get 90 percent of that vote, you see, so he has it in his hip pocket.

Q And yet there have only been two Mexican-Americans in the last twenty-five years --

A Well, we have had a lot of changes in the last twenty-five years too.

Q Let's say in the last ten years.

A Tony Bonilla got beaten by Peaches Gonzales and then he was defeated. There are people alive today who are never going to get over that.

Q There is no question about that. If we are going to break down Nueces County in three relatively equal representative districts, would you say a Mexican-American in at least two of those districts would start at a less advantage than if he had to run county-wide?

A It is possible. In one district, he would have a shoo-in probably, but in another district he would

start with some -- well, how do you know, disadvantage or advantage, because some areas of Corpus Christi supported Governor George Wallace.

Q They would probably not support the Mexican-American?

A I don't know.

Q Now, you mentioned something about the precinct chairman, would those be from this area on this map identified as the corridor area?

A Predominantly, yes.

Q And other Mexican-Americans, those from the district races and justices of the peace races, those would be primarily from the Mexican-American areas? We can go through it race by race, if you want to.

A Although the commissioner's court has appointed some justices of the peace and county court at law judges, the last several have been Mexican-American.

Q But Mexican-Americans county-wide who were elected, you could probably count on one hand, could you not?

A I don't know. There are not many that is correct.

Q It certainly would not be more than two hands?

A Probably not.

Q Well, Bonilla, Truan --

A But how many have run?

Q Well, that brings up another factor. Do you

suppose the size of the district and the fact that Anglos vote against a man because he is a Mexican-American add up to discouraging the Mexican-American from running?

A Well, of course, you can go back to past years, twenty-five to fifty years ago, and Mexican-Americans have been discriminated against economically and you know that. This has kept them from participating. The Mexican-American has been suppressed and held down economically and that is a fact, but we are progressing and we have reached the point where more and more the situation is improving.

Mr. DeAses almost won last year.

Q Would you say he was the better candidate in that race?

A No.

Q But he still almost won?

A Yes, even though his candidate was one of the best trial lawyers in this country.

Q You said -- is it true that the first Mexican-American ever elected to a post at a regular Democratic convention was elected this year?

A Last year.

Q Is that correct?

A Delegate to the National Convention -- I don't know.

Last year was the first time I really -- it is the only year I could tell you who they were. I named them awhile ago. Is that not an indication of progress?

Q I don't know, sir.

Are you aware of who the delegates were to the Democratic National Convention in 1948 and '52?

A No, I am not.

Q So you would not know who the Mexican-Americans were who were on the so-called rump delegation that year?

A No, sir.

Q When Mexican-Americans do run, are you aware of some whisper campaigns that go on around the south side, telephone campaigns that say you should not vote because this man is a Mexican-American or also using the so-called catch words?

A I have known of telephone campaigns which take place, but these also take place against Anglo candidates. A close friend of mine ran for the school board at one time and there was such a campaign against him. He was angry about it.

Q But these do take place?

A I don't know how effective they are. Mostly, it is among women who don't have much else to do.

Q Would you say this Cisneros case and the threat of busing has had an effect of polarizing this community?

A To some extent, I expect it has.

Q Would you say that today, especially if busing is ordered here, the condition of Anglo and Mexican-Americans would not be as good as it was in the late '60s?

A That is possible. I am hopeful that is not going to be the case.

Q You are aware, of course, of the concerned parents and their drives and publicity, of course?

A Yes.

Q Would you say among the concerned parents that the threat and effect of busing would be to polarize the community and set them against Mexican-American?

A That is possible, I don't know.

Q It is not going to help matters any, the community is not going to come closer together, is that true?

A I don't know. You know public opinion, there may be some leaders in our community that will rally to try to bring people together. They have not as yet and it may happen. Who would have ever thought that in 1948 that Lyndon Johnson would be

President of the United States.

Q Maybe Lyndon Johnson.

A Touche.

Q And this downtown businessmen's group, are there any Mexican-Americans that are primary members of that group?

A Yes.

Q But they are primarily Anglo?

A I believe so.

Q You said you still have to use media, is that correct?

A Yes.

Q I am going to show you a map that is a portion -- if we had a map like this and these were the three equal districts, would you say that in district A you would still have to use the media or would you have to go door to door?

A You might in A be able to go door to door. This would be with a minimum of media.

Q And how about B?

A You would also have urban areas there and you would have to use some media there also.

Q The primary amount of population would be centered in B, is that correct?

A To a great extent, but I think you would have to

use some media.

Q If I told you 50 to 65 percent minority was in A and B, would you say that a Mexican-American or Black would be less disadvantaged if they had to run in that district than throughout the entire county district?

A Yes, I expect that is so, but I don't know that would get you any better representation.

MR. KORBEL: I would like to mark this as Plaintiff's Exhibit 1, Peeler.

(The above mentioned document was marked Plaintiff's Exhibit 1, Peeler, for identification.)

MR. KORBEL: I would like to offer this in evidence at this time.

MS. LEVATINO: No objection.

MR. KORBEL: That is all I have.

R E - E X A M I N A T I O N

BY MS. LEVATINO:

Q Would it be fair to say in your opinion that a significant portion of the feeling with regard

to the school problem is related to taking children from the neighborhood and busing them somewhere else? Do you feel there is a feeling of not wanting their children to be taken out of the neighborhood area and also the facilities they may need?

A Yes, there is a strong opposition to taking children and busing them to another school.

Q Which is based on the physical transportation and what kind of schools they are going to there?

A I think that is a good part of it.

Q On this map that was introduced, is there a high concentration in this C district?

A Yes.

Q Would it be perhaps in district A that one could go door to door and in B and C this would not be easily done.

A That is correct.

MS. LEVATINO: That is all I have.

MR. KORBEL: I have no further questions.

(SIGNATURE WAIVED)

The State of Texas
County of Nueces

I, RONNIE VERNON, a Notary Public in and for Nueces County, Texas, do hereby certify that the facts stated by me in the caption hereto are true; that the foregoing deposition of TRAVIS PEELER, the witness hereinbefore named, was at the time named, taken by me in stenograph, the said witness having been by me first duly cautioned and sworn upon his oath to tell the truth, the whole truth, and nothing but the truth, and later transcribed from stenograph to typewriting by Gail Duncan.

I further certify that the above and foregoing deposition as set forth in typewriting is a full, true and correct transcript of the proceedings had at the time of taking said deposition.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which this deposition is taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in the action.

WITNESS MY HAND this ___ day of _____, A.D., 1973.

_____
RONNIE VERNON
Notary Public, Nueces
County, Texas

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION
* * *

CURTIS GRAVES, ET AL VS. BEN BARNES, ET AL	* * * *	CIVIL ACTION NO. A-71-CA-142
DIANA REGESTER, ET AL. VS. BOB BULLOCK, ET AL.	* * * *	CIVIL ACTION NO. A-71-CA-143
JOHNNY MARRIOTT, ET AL. VS. PRESTON SMITH, ET AL.	* * * *	CIVIL ACTION NO. A-71-CA-144
VAN HENRY ARCHER VS. PRESTON SMITH, ET AL	* * * *	CIVIL ACTION NO. A-71-CA-145
FRANK A. ESCALANTE, ET AL. VS. MARK WHITE, ET AL.	* * * *	CIVIL ACTION NO. A-73-CA-115

JAMES GASKIN, ET AL VS. MARK WHITE, ET AL.	* * *	CIVIL ACTION NO. A-73-CA-146
WANDA L. CHAPMAN, ET AL VS. MARK W. WHITE, JR., ET AL*	* * *	CIVIL ACTION NO. A-73-CA-155

DEPOSITION OF ROBERT L. GILBERT,

given at the McLennan County Courthouse, Waco, Texas, on Friday, November 9, 1973, beginning at or about 1:00 P.M.

APPEARANCES

Hon. David R. Richards, Attorney at Law, 600 West 7th Street, Austin, Texas, appearing for and on behalf of Plaintiff Interveners Charles Wright, et al.

Hon. R. James George, Jr., Attorney at Law, P. O. Box 98, Austin, Texas, appearing for and on behalf of the Republican Plaintiff, Dr. George Wolliford, et al.

Hon. Elizabeth B. Levatino, Attorney at Law, Supreme Court Building, Austin, Texas, appearing for and on behalf of Defendants Brisco and Warren.

REPORTED BY: L. E. Gaskey, Official Court Reporter--Notary Public

AGREEMENT

It is agreed by and between the parties hereto who have their attorneys appearing herein that the Plaintiff Intervenor may take the deposition of the witness,

ROBERT L. GILBERT,

taking it under the assumption that all objections used at form of substance be levied at this time, and that it would be signed before any Notary.

DEPOSITION

ROBERT L. GILBERT,

after having first been duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

BY MR. RICHARDS:

Q. Could you give us your full name, please?

A. My name is Robert Lewis Gilbert.

Q. Lewis, L-E-W-I-S?

A. L-E-W-I-S.

Q. How old are you, Mr. Gilbert?

A. Thirty-two--I'll be 33 in December.

Q. I believe you told me you are a native of Waco. Is that correct?

A. Correct.

Q. You are presently employed as the Coordinator for the--

A. Association for Selective Career Opportunities. That is ASCO.

Q. What is that?

A. ASCO is a minority program that is primarily concerned with getting more minorities into professional, technical

and management type jobs, in the Waco area primarily.

Q. Let's see. It is uncomfortable for you to be that way. How would you be more comfortable?

I believe you told me that is funded by the Model Cities.

A. Right. We receive a grant from the Model Cities for the programs. After Model Cities' fund expires, we are in negotiations now for some private funds to continue the program.

Q. Okay. Before this, you were a counsel for the EOAC?

A. Right, I was with the Economic Opportunity Advance Corporation, working with the Intensive Counselling Program, which is primarily concerned with students who are having behavioral or academic problems, who are potential drop-outs and we are counseling them, trying to keep them on or counsel them into another direction where they could have some kind of future in a technical area or something.

Q. Was that in connection with the Waco Public School Systems?

A. No. This is one--it comes under the Community Action Program, which is one of the EOE funded programs.

Q. But is was concerned with Waco?

A. Right. It was concerned with Waco Schools as such.

Q. And you taught in the Waco Public School

A. Yes, I taught for three years at Tennyson Junior High. I taught Social Studies there.

Q. What is your--I forgot to ask you what your education background is.

A. I went for two years--well, beginning with high school, I graduated from Moore High School here and then I went for two years to Paul Quinn College and transferred to Baylor University, where I got a Bachelor of Arts Degree, majoring in History and minoring in English, and I have had 18 hours of post graduate work at Baylor. I also worked there as assistant Director to the Upward Bound Program at Baylor for nearly three years.

Q. That was what program?

A. That was also a government financed program which was geared for getting high school students who were potential drop-outs who were under achieved, but had maybe the IQ and ability to perform at higher level, and we were attempting to motivate them by various means, trying to develop new techniques. That was highly tutorial type.

Q. Was that directed specifically to the Waco community?

A. Right. It was directed, really, to--in the high school area. It was also a government funded program through Baylor University.

Q. Let's see. I think you told me also that you were one or more, or the only one, of the Plaintiffs in the current round of the school desegregation case involving the Waco Public Schools.

A. Right.

Q. Are you the Plaintiff?

A. I am the Plaintiff that can be found, yes.

Q. The rest of them---

A. When the heat got on, the rest of them--well, everybody started to disappear and nobody could find out where the other Plaintiffs were.

Q. You are the surviving one?

A. Right.

Q. I believe you told me that you had been active in political affairs in the Waco community.

A. Right. I would say about 1960 was when I first started in getting interested in working in campaigns.

Q. Have you been--is it fair to say since 1960 down to the present that you have continued to have an active interest in the political affairs of--

A. Quite active, with exception of maybe a couple of years there with health problems and I was not able to participate, but off and on, it has been consistently yes since that time.

Q. All right. I believe you told me that you were also

Chairman for the McLennan County Blacks for McGovern. Is that correct?

A. Right. First of all, we were--had an effort in trying to register as many blacks as possible in the McLennan County area. A certain amount of funds came in for the black community and I was heading up that part. It turned into a blacks for for McGovern campaign kind of thing and I was responsible for that.

Q. Just so--like I told you, we will have this established by census tract data elsewhere, but the basis heart of the black community is what is called East Waco?

A. Right.

Q. That is the area east of the Brazos River?

A. Right.

Q. I think you told me, though, that there has been a western migration of blacks across the river and moving on out to what I suppose is what, 10th or 12th Street in Waco?

A. Right. I would say that the area bordered by--let's see, Herring Avenue north back to Waco Drive, and then say to the River, the Brazos River, east, moving west to 18th Street, within that area of that block, you will find--this is becoming a very, very highly concentrated black area.

Q. This migration, I guess, has been taking place in the

last four or five years?

A. Yes, sir, four or five or six years.

Q. Now, we talked a little bit about the history in terms of black candidates for public office in the McLennan County area, and I believe--am I correct that the first black that ever run in this century for public office in the Democratic Primary was Dan Pell Evans when he ran for County Commissioner? Is that correct?

A. That is correct.

Q. I--we probably will have to chase that down. Can you remember about when that race was made?

A. It seems to me that it is somewhere in the neighborhood of '50.

Q. He was not successful?

A. No, he was not successful. As a matter of fact, there was quite a clamor about it because at this time it was an unheard of thing for a black to run for a public office in Waco.

Q. And there haven't been many since that day, I take it.

A. Right.

Q. There was a man named Haliburton who ran--

A. Right.

Q. --for one of the races for County Commissioner. Is that right?

A. Right. It was Haliburton. As a matter of fact, I think he probably tried twice and was quite unsuccessful.

Q. Other than those races, no blacks in Waco have filed for any offices in the Democratic Primary?

A. No.

Q. None have ever been elected?

A. No.

Q. As to the Haliburton race, if you can tell us, was he able to get any of the votes--any significant number of votes outside of the black community?

A. No, he was not. I think that was the main reason for his defeat because, as I recall, there was a lot of interest generated in the black community for this black candidate, and got a lot of people to work for him, and I don't recall what the percentages are at this point of the black turnout, but I remember it was quite high, but he had an overwhelming defeat in both of those races.

(Whereupon the hereinafter described document was marked for identification as Gilbert Deposition Exhibit No. 1)

Q. Mr. Gilbert, you are aware, aren't you, of a study that was done by the League of Voters here in Waco

concerning the history of the changes in the method of electing members of the City Council in Waco?

A. Yes, sir.

Q. I think you told me that you participated on a committee that was an outgrowth of this study for the purpose to challenge, or to go into the possibility of challenging, the legality of making those changes.

A. Right. We were primarily concerned with getting the system changed from at large election to the City Council to a ward system.

Q. I am going to hand you what has been marked as Deposition Exhibit 1, a five-page memeographed document. Do you recognize that as the study that was done that traces the history of the method of election of the City Council in Waco?

A. Right.

Q. Just summarizing with me, as I recall from the document, some time about 1948, I believe, the method of election of the City officials of Waco changed to a ward system whereby the Council would be composed of the members elected from wards throughout the city.

A. That's right.

Q. Then in 1950, the first black candidate ever filed for the office filed from the East Waco Ward under this new election scheme. Is that right?

A. Right.

Q. And I believe his name was Stewart.

A. Right.

Q. That although he want's elected, he got a reasonable or substantial number of votes in the election.

A. Right.

Q. And then immediately thereafter, the City Council, without explanation, changed the method of electing the City Council back to an at large system.

A. Right. It was the same year of this election that it was changed, and it was strictly initiated from a resolution from the City Council members. Usually when these kind of changes come up, some kind of a petition comes about to change the charter and things like this, but this was initiated within the City Council itself.

Q. I guess one of the conclusions that was reached by the League of Women Voters study was the only explanation for thechange was the fact that the Council feared that a black might be elected from the East Waco Ward?

A. I--you know, that is what the whole black community said the reason was for it, and I'm sure the League concurred with us, but that is what we all thought.

Q. This particular document that I think thereafter traces the election returns with respect to the East

Waco Ward, I guess, right on down to the present?

A. Right, through 1970

Q. And as I recall, the document also reflects those candidates which were black candidates?

A. Right.

Q. In one instance, there were two black candidates, Radford and---

A. Dorsey.

Q. Is that his name?

A. And--

Q. As I recall, under that current scheme, what happened is, as I understand, the person would live in the Ward that runs at large and is elected city wide.

A. Right.

Q. As I recall, the Radford race and the Dorsey race, although both of whom were black, Dorsey got three times, roughly, as many votes in the East Waco black ward as Radford did, but Radford, however, was elected.

A. Right.

Q. I think you told us also, did you not, that there has been--in the Southwest Ward, there had been a Mexican American.

A. Right. Domingo Capetillo.

Q. In 1970, is that correct, in the Southwest Ward?

A. Right, and the same thing occurred that had happened in

the Dorsey-Radford situation. You had a predominantly Mexican American, or a highly concentrated area of Mexican Americans, who voted for Capetillo, but the rest of the community were the ones who ultimately made the decision as to who would represent them.

Q. And Capetillo lost?

A. And Capetillo lost, and also in the last election, there was a DeLeon, Videl DeLeon, who ran out there. I think he has run twice. The first time he was in the same situation that Capetillo was, and the second time it was made a little harder because at that time they had changed those lines where the Mexican Americans--it is even more difficult for them to get elected out there.

MISS LEVATINO: Are you introducing that? Is you do--

MR. RICHARDS: As a verification of the history--

MISS LEVATINO: The report issued by the--

MR. RICHARDS: No. It is to establish just what it shows. This is a history of the City elections

of Waco and the candidates and the votes they got, and to the extent that it characterizes their color, the color of the candidate, and it also shows the date the election, the ward in which they ran, nad it is for all those purposes as well as showing the sequence of change in the City Council--in the method of electing City Council, the history of the Waco elections in terms of method. I do not think there is a conclusion reached in here, if that's what you are troubled about, as to the purpose of change. The witness' testimony is to establish the structure. There is no purpose--I also, I guess, am offering it for the analysis as it was made as of the date of this study as to the composition interms of black and Mexican Americans on various commissions and boards.

MISS LEVATINO: This last is the thing--

MR. RICHARDS: The quotes and institutional races--well, I'm not offering it for the quotes and institutional races in America. The quotes in--

MISS LEVATINO: The conclusion--

MR. RICHARDS: No. That was just simply on this

page. I'm offering it for all other purposes.

MISS LEVATINO: Okay. We may have something else to offer.

Q. No black has ever been elected other than the City Council we discussed. There have been blacks who have periodically now served on the City Council, I suppose. Is that correct?

A. Right. Radford was the first and DuCongue now serves currently.

Q. But no blacks have ever been elected in the Democratic Primary to any offices?

A. No.

Q. Or hold any county office or legislative office of any kind?

A. No. I don't think any black has ever thought there was any hope for ever getting elected in the Democratic Primary. There hasn't been that kind of participation. There hasn't been that kind of feeling on the part of the blacks that they were even welcome in that type of participation.

Q. In what type of participation?

A. In the whole Democratic Party structure. I would imagine that you wouldn't be able to find blacks in this

town that knows what the processes are from the very beginning, say, precincts and so forth, and so on, as to what is involved in getting the candidate nominated. It is something that has been a closed door for blacks even though--there is no organized effort to penetrate that force.

Q. To bring the blacks into the process of the Democratic Primary or party? Is that right?

A. Right.

Q. I think you did tell us that there has been reasonable participation of blacks in the city elections where there was a black candidate; the turn-out was reasonably high, but the black turn-out participation in the Democratic Primary is relatively low?

A. Right, because unless there is a candidate that the blacks can identify with, I think there isn't that much motivation or enthusiasm about going to the polls and we just haven't had that many candidates that we could identify with.

Q. All right. Specifically in terms of the formulation of candidates who run in the Democratic Primary for the legislature or other offices, as you have observed it, has the black community had any input in that process, in selection of candidates who are going to file for office or have consulted about who has filed?

A. No, not at all. I think probably by the time that we hear about it, they have already filed and then they come to us and say you support us, but there is nobody that comes to the black community to seek out any advice as to whether or not--you know, what their possibilities would be for winning or anything of that sort. It is one time that you see this candidate and that is the time when election time rolls around and they need somebody--to get a few extra votes, but otherwise--and you don't see them again until the next election comes around.

Q. Well, is it fair then to say that at least as far as the black community as it relates to the legislative--the people that serve in the legislature from Waco, or have been, that there is little or no feeling of identification with the legislature; that they are not seeing the black community, and as far as the black community knows or is aware of, are not responding to black issues and needs?

A. Well, I will put it this way. I have--the times that I got out of school and from the time I have been participating in these things, and even through teaching school and all of this, there is not--there was no real way that I could even identify with the candidates and, you know, if I hadn't kept up with the newspapers

and stuff like that, I probably wouldn't have known who they were, and I think this is--there is no candidate up to the ones that are--up to the time of the legislators serving now, have I known them to even recognize the black community existed.

Q. I think we talked about the--well, I think I told you that there was a study done or a vote taken from the Democratic Primary ballot in about 1956 involving--the voters expressed the preference as to whether or not they wanted to maintain segregation in the public school system, and I think the City of Waco was 81% voting for retention of segregation. As far as you see things, do you still find a very substantial--a very substantial majority of the white community resisting desegregation of the public schools?

A. Oh, there is no question and I wouldn't --I'm amazed that it is as great as it was even though "liberal" people who were supposed always to be the champion of those kind of causes were not really with us on this issue.

Q. You mean in the current round of desegregation?

A. Right. The current round, and I would say the lines are clearly drawn at this point.

Q. Between the black and white communities?

A. Right, between the black and white communities, and

there is a strong, potent organized force to retain a dual system.

Q. What is your opinion as to the extent in which the black community effectively participates or doesn't participate within the political affairs of this county or city?

A. It would be to a very limited extent. There are one or two organizations that--say, like the Northeast Neighborhood Council, the local N.A.A.C.P., The Black Federation, all of these organizations, I think, are trying to do the same thing, but none of them has the power to do anything effectively because of the people in this town, blacks particularly, are so--in such a way of despair until--and they had so many defeats, one after another, until even I, you know, I have reached a state now where I am dropping out because of the lack of hope. You know, I have been out there for 12 years or so just pounding at this and I have reached a point that, you know, I see no hope to penetrate this system, this force. I see no hope in our getting our message over. After the Black Federation was not able to, and the Black Federation was probably as strong a force as I have seen in this community since I have been here, and due to the conspiracy of the media and everybody else, this was sabotaged and it lost its effectiveness,

and I say conspiracy, I mean during the whole school issue, the Federation would take certain positions and the media would print wrong--false statements, things they said I said that they hadn't even talked to me about. They would--we had organized for a boycott and the media confused people by printing that things were goint to be a certain day and they would be planned for another time. A whole air of confusion was brought on by the media and we have no way of getting our message to the people, and it was because of that that all of the fight that I have had in me has almost been stifled. It is a very frustrating kind of experience.

Q. Well, in that context, or in that connection, how would you characterize for us the attitude of the white man to the dominant black community with respect to its attitude toward the black community?

A. I think the main attitude of the white community is more of a paternalistic type. More of--if you don't rock the boat, if you don't ask any questions, they will dole out to you what they think you should have and that's it. I mean there is this idea--I like to describe it as we're living in kind of an agricultural setting and it is a plantation type atmosphere. It is the feeling that I got. Baylor is the epitome of it, you know. When I was out there,there might have been

two or three more blacks going to school at that time and you got the feeling that you were on this big plantation and whatever boss says, you know, that's the way it went, and you didn't feel a part of--I don't feel a part of the City of Waco as such. I mean, I'm here, but there is nothing that I can say or do that can influence what goes on in Waco. I find myself always in an antagonistic kind of situation and I always find myself being one in combat or something with somebody because--and I don't think it should be that way if the system was more open and the people like me, who are very easily put down, have images placed on us, which tend to make us lose some degree of effectiveness in the community.

Q. You think what you are expressing in terms of the attitude, the plantation attitude, is that characteristic of the paternalistic attitude--I take it you are saying that it gives you a predominant attitude of the white community toward the black community in this city or in this area.

A. That's the way I would characterize it.

Q. Is there an--I take it what you are saying, too, is that there is no real degree of partnership or joint effort of treating the black community on equality with them in political matters particularly.

A. Everything is token.

Q. Just as you have seen it, or based on observations in the past, political races in the nature of the racial attitude of the community, do you think there is any realistic prospect of a black candidate for the Texas Legislature, for example, running in a county-wide area, to get the Democratic nomination?

A. Not the way things are set up here now. There is no--I don't even--I haven't ever heard of a black talking about running for the Legislature.

Q. Even nuturing that ambition?

A. That is unthinkable; even to think about running for the Legislature. Now, the effort of those guys trying to run for the County Commissioners last year sounded way out, but to talk about the Texas Legislature, I don't conceivably see that. Not the way things are situated here now.

A. I take it at least--it might be fair to say that at least in part, there remains sufficient hostility in the white community that the blacks or black interests would have to try to overcome that hostility if you tried to make a--

A. He would have to do that or he would have to be a candidate that is not receptive to the black community.

Q. Disassociate himself with the black?

A. Right. Right. In other words, he would have to be, you know, like DuCongue is or like Radford was. I think one of the City Council members--well, yes. Ted Gutterman, who ran this last time, who ran one of these things where they were campaigning against--where all the candidates were there together, and Gutterman said he never did see Oscar and Radford as black men, you know, and this is the way they perform, you know. It is not a champion for the causes of black people and DuCongue has a philosophy that he expresses from time to time that you get in there and you give some and take some, and you bargain, and I can't get in there and just start talking about black issues because I will be out voted every time and I--I only have one vote, and he has to play the game in that manner. I personally feel that principals should have priority; the gut issues should be the ones that are faced and these things should be spoken to no matter how much opposition the matter should have I think it should be raised. I think it should always be before the people, but, of course, that is his philosophy and I have another, but a candidate--back to your question, a candidate that shows himself to be--shall I say, has lost his black identity, would have more success. For

example, the School Board, with these problems they are having at schools now, appointed a Blue Ribbon Committee to look into these problems. They hand-picked these people and not a one of these people came from the Federation. They didn't bother to pick somebody like Bishop Adams, who would speak out on the issues, but they picked somebody like Harvey who runs a black weekly paper here which doesn't speak for the black community at all.

Q. This was a committee that was picked by the School Board?

A. Right. The School Board picket it themselves and the black representative didn't represent the black community. They didn't want--I mean, they wanted somebody to whitwash--the black person they picked doesn't identify with the black community in any way.

Q. Does the black community identify with him?

A. And they don't identify with him, right. This is the whole tradition in picking Boards and Commissions. That has been done over and over again. The established people here, the power structure here, reach out and pick Rev. So and so, and they say this represents the black community, but we have been trying to say no, you know. We have people that we want to speak for us and these people are not speaking for us and the power people always pick their own leader, and I think the

problem that Bishop Adams himself had was that the white power structures were never able to tell us to shut up or manipulate us in any way, and I don't know what impact, you know, it might have had, but this is the reason why we stayed at an antagonistic--

Q This Bishop Adams, is this Bishop Adams who is the Chairman of the Board of the--

A Right. Paul Quinn College, and he presides over the District of African Methodist Church.

Q The two of you, I think, are sort of a joint leadership over the Federation movement. Is that correct?

A Right. Right, right.

MR. GEORGE: Can I interject a question here?

MR. RICHARDS: Go ahead.

MR. GEORGE: The Federation movement was part of the movement in the black community dealing with the problem of the dual school system?

A Well, that was a part of it, but when the Federation was first initiated, it started out as an effort to get all of the black organization in the Waco community together under one umbrella, and even though each one

would still retain its sovereignty, when it comes to issues that we were supposed to speak on to the community, we would all be saying the same thing at the same time, and that's what that was, and it wasn't just concerned with the school issue. The school issue just happened to be--in other words, I was not the Chairman--the Bishop and I were not the Chairmen of the Federation. We were just the co-chairmen of the education committee of the Black Federation. That was just a component and then we have an employment committee, which was to do a thing, and we just happened to be a component of that within the Federation.

MR. GEORGE: If I could continue with one more question on that--

MR. RICHARDS: Go ahead. I think I'm through, but go ahead.

CROSS EXAMINATION

BY MR. GEORGE:

Q When you talk about black issues, you are talking about issues such as the integration, desegregation of the public school system, equal opportunities for employment?

A Right.

Q Access to public facilities?

A Right.

Q The basic issues dealing with racial problems of the community?

A Right.

Q A couple of other questions to fill up here--Mr. Gilbert, has a Republican ever been elected to the State Legislature, to your knowledge, from this area?

A I don't ever recall a Republican being elected. This has been a strong Democratic hold and black Republicans and all other minorities haven't had a chance.

Q So, the Democratic Party is the primary political force in this area?

A Right.

Q Okay. Do you have--I believe you mentioned one instance about a Precinct Convention, and you may know of other instances in your knowledge, of political votes being along racial lines in this community?

A Yes. I think they are quite decided along racial lines. This is made more apparent when you have a black candidate running, you know, when you have an issue facing a black community.

Q You told me about a Precinct Convention once.

A Right.

A I was living in Precinct 4 then and we were in a minority there, and that was the beginning of my participation in this type of thing, and everything that affected the blacks was usually voted down and we really didn't have any--we didn't know who lawyer so and so was, who was presiding over there, and we didn't know the secretary, we didn't know any of the people who were running the show, and didn't even know how to get to run the show, and we were all there just voting on things and trying to be heard, you know.

Q So if a black person was nominated in the Precinct Convention, you would have a situation in which the blacks would be all for him and all of the whites would vote against him?

A Right. Right.

Q Do you, from your knowledge, know of any other --in connection, for example, with the desegregation of the public schools, racial tensions that have been evidenced in connection with violence, for example, in the schools which have racial overtones?

A There have been a number of reported incidents. You know, I get this from students talking and I get it through teachers.

Q In connection with your counseling and other activities?

A Yes, and things are really polarized.

Q This polarization takes place on the basis of whites antagonistic to blacks. Is that right?

A That's the way I see it.

Q Then, on the second--on another level, do you have any knowledge of any incident where a representative of this Legislative District has ever introduced or championed in any manner any legislative issue dealing with black problems such as desegregation of schools, drafted or in any way championed a bill dealing with equal opportunities for employment?

A I sure don't, and if he did, he wouldn't stand a chance to get re-elected again.

Q Do any of the current legislative delegates, or has to the legislative delegations in the past, come and ask, to your knowledge, you or other leaders of the black community, about what you think about a legislative bill such as that?

A Never.

Q Never?

A Never. Never. The only time that I have ever even received any correspondence from a legislator was in the Denton tenure. I think I helped him in the black community to get elected.

Q But this--

A But this was not a thing that, you know--where --all I'm

saying is that Lane--even Lane has not gotten on the wagon to support, I think, legislation that affects is directly.

Q Black issues pur se?

A Right. I think it is more for political purposes.

Q Well, somebody might present some issue that a black might support also, such as economic legislation or something that tends to be for poor people--I don't mean blacks are poor, therefore blacks would be for it, but a black issue such as segregation--

A None. Not at all.

Q There is no chance, and that is your opinion as an expert in your knowledge of working in this community, that a black legislator in this legislative district who champions such legislation would be dramatically defeated in the white community?

A He would be politically dead.

MR. GEORGE: That's all I have, I believe.

CROSS EXAMINATION

BY MISS LEVATINO:

Q I will try and make this short, Mr. Gilbert. A couple of areas I do want to pick up on, as long as Jim was

talking about this. Are you familiar with Tom Moore at all?

A Yes.

Q Had you ever worked with him?

A Not directly; sort of peripherally, I guess, but not directly because I personally didn't see Tom Moore as being genuine, even though he carried, I believe, a liberal--I personally had some reservations about him, so--it might be a personal hang-up. It might be that I was acquainted with him when he was a District Attorney and I knew how he treated the black folks there and I probably had a personal prejudice about him, but I never--I voted for him, but I never supported him.

Q Do you have any personal knowledge generally how he or Lane Denton, or Tom Moore, vote in, or their races in terms of vote turn-out in the black area?

A Yes. I would say that each of them got an overwhelming majority of the black votes.

Q Okay. Are you familiar with, or have you ever heard, the speeches made by both Mr. Moore or Mr. Denton with regard to the busing issue in the legislature?

A I'm not sure that I'm aware of their speeches.

Q Would it surprise you to know that both of them had expressed opposition to a rider to the appropriations bill that would have eliminated the use of state money

for busing children to perpetuate desegregation of schools?

A You mean they were--

Q They were opposed to putting that rider--would it surprise you to know that they were opposed to putting that rider on?

A Not really, no. I don't think it would.

Q But you were not aware that they--

A No, I wasn't aware.

Q Let me ask you--do you have a ballpark figure or a specific figure as to what the percentage of blacks are either in--the total population here in McLennan County or Waco proper?

A Yes. I think McLennan County has about 17% and in Waco proper about 22%.

Q Okay. Would you say that McLennan County--you mentioned there was an area of Waco that was predominantly black. Would you say that most of the blacks in McLennan County would be found in that area?

A Right. I think so. In the East Waco area, probably you would find the greatest concentration of blacks.

Q Okay. Approximately how many precincts would that cover?

A Oh, that would cover 10; 10-A; 10-B, which is predominantly white, Italian and other interests; 10-C;

and maybe 10-D, and that's it. I believe that's it.

Q Okay. It is my understanding from the exhibit that was introduced earlier that under your present City Council form of government, candidates for City Council must live in certain areas, but they are elected at large.

A Right.

Q In other words, everyone in the city gets to vote?

A Right.

Q And you have elected, without going into what you expressed before, your opinion of people who were elected, you have--blacks have been elected to the City Council under the resident requirements and at large voters. Is that correct?

A Well, they have been elected, but I think it has been not necessarily the candidate that they wanted. I think it is a case of Radford, who was the first one that was elected, it was just a situation of who you had. I think there was maybe three candidates in that race; two blacks and one white, and it was a time where probably the black candidates were more qualified than the white candidate in the first place, and there was also a time where the community felt that, you know, this is the time we should have one token black in there, and we've got a doctor, so, you know, this guy would be a fairly safe guy to go with, and I think

this is how Radford was able to go in and even at that point it was a generated enthusiasm for the blacks to turn out and vote, and I think they probably overwhelmingly voted for Radford. I did the first time because it was a novelty and I felt that Radford, being a dentist, would be able to be independent and at that time I was very immature in my political thinking and this sort of thing, and I thought the fact he was making his own living, he could pretty well speak with the issues, but he changed dramatically.

Q But the mere fact that a person was black as opposed to white did not prevent him from being elected?

A No, because I think the odds were in his favor. I mean, the time was right for blacks to come and I think the City recognized that, you know, if you've got two guys running in a race, two are black and you have three running, that those black folks over there should have somebody on there.

Q Okay. Now, if just for example in the City Council races not only did you have to reside in the area, but also the election was just from that ward or that area, how many other blacks do you think could be elected from the City of Waco?

A If it would be pure ward election?

Q Right.

A I would say that there would be a very good possibility that there would be two blacks on the City Council.

Q Out of six; is that how many?

A Yes. There is a strong possibility that two blacks, or either a black and a Mexican American, or some composition of that because I am basing that on Precinct 11 becoming increasingly black, and there is a possibility a black candidate could win in that area and you would always have this East Waco area.

Q Then you mentioned the fact that most of the City Council Board appointments, the Blue Ribbon Committee and so forth, is done because of the majority of whites on the council. Would it be fair to say that even with the--from the situation we were talking about, the possibility of two blacks or at least a black and a Mexican American, that it would take a certain kind of perhaps educational or attitude change, more than just having two people on that Council together, the kind of Board representation that you are speaking of?

A Well, you know--if you had three blacks on the Council--if you had four blacks on the Council, and if they are not the blacks who are representatives of the community, it still wouldn't make any difference. I'm not saying that just the fact you get a person of color on there would mean that blacks would be to greater

advantage, but I do say that the likelihood or the chances are much better than they are without any blacks on there at all.

Q Okay. But then, still each ward would have to elect the kind of black that they felt would be representative of the community. Is that right?

A I think they could do that because if each one would really know that he is going to be accountable to that community, then he would have to campaign--

Q Okay. Going back to the realities of Waco where you have approximately 15% or perhaps a little bit less in the city itself--

MR RICHARDS: The city itself, I think, is over 20%. The county is 17%.

Q Okay. But taking that percentage, the reality that you mentioned before, probably for sure one and probably two black, or perhaps one black and one Mexican American could be elected to the City Council under the percentages we were talking about--

A Uh huh.

Q --that you are still going to need to get--to get the kind of things that you are talking about, that even given that those people representing the kind of blacks

you are talking about involving the school desegregation, employment, and this kind of thing; would that be a fair statement?

A It is a start.

Q Would that be a fair statement, that given those two, you are going to have to do more than just elect them?

A I don't think--

Q It isn't going to solve the problem.

A I don't think that just electing two people is going to make such a dramatic change, but I do think in the long run that this is going to evolve into some--

Q But that would be a fair statement to make, in general?

A It wouldn't change it that year, if that's what you are talking about. I mean, to get two blacks elected doesn't mean it is going to change the community attitude that year.

Q But what I'm saying is the community attitude must be changed. That's what you are working for.

A We are working to get the community attitude changed, right, but I think part of that change would come through seeing, say two black councilmen.

Q How did the blacks that are presently on the City Council decide to run? Do you have any personal knowledge of that?

A I really don't know. I don't personally know.

Q Did any of them contact you or any people that you know?

A I would imagine that DuCongue sought out some people in the black community. I'm more familiar with the Dorsey campaign because I worked as a Captain in one of the precincts. I worked more directly with that you know. He just came to a number of us--well, a number of us sought him out. I will put it that way, and got him to run, but in the other instances, DuCongue, I'm not sure how this came about because--let's see, that was--I might have been ill at the time when this first started.

Q But you did seek out--there were members of the black community that did seek out Mr. Dorsey. Is that correct?

A Yes.

Q You mentioned three groups here in Waco that generally could be identified as black organizations, the Northeast Neighborhood Council, the N.A.A.C.P., and the Black Federation. Is that correct?

A Yes.

Q Do any of these groups ever, during the times of political campaigns, regardless of what level, ever make any endorsements of candidates or slates of candidates?

A I think they make endorsements. I'm sure the Northeast Neighborhood Council--I participate in that. The Black Federation is not old enough, I don't think, at this

point to get into this political endorsement. The N.A.A.C.P., I think, is a source of conflict in that the N.A.A.C.P. or the Northeast Neighborhood Council have divided on which candidates to endorse, and this sort of thing, so there is a problem there.

Q Okay. Do you recall who either the N.A.A.C.P. or the Northeast Neighborhood Council endorsed for the legislative--Democratic Legislative Primary?

A Yes. I think I could probably--the Democratic Legislative?

Q Yes.

A Northeast endorsed Ron Lillard and Lane Denton --was it Lane Denton?

Q Yes.

A Who else was in there?

Q Well, those are the only two legislators.

A Yes. Those were the two.

Q And the N.A.A.C.P.?

A The N.A.A.C.P. endorsed Lyndon Olson and Lane Denton, I think.

Q Even with this ad, those two groups were in some disagreement as to who would best serve the interests of the black community, of the candidates offered?

A Yes. I think there was a difference of opinion.

Q Do you have personal knowledge, or do you know, of any

of those people, Lane Denton, Lyndon Olson, or Mr. Lillard--

A Yes. Ron Lillard.

Q --sought the endorsement of these?

A All of them did.

Q All of them sought the endorsement?

A Yes.

Q Okay. You mentioned that the black weekly paper, which I understood is somewhat of a communication media within the black community, does not accurately reflect the--those issues that are--fielding those issues?

A I hate to leave the impression it is even a newspaper because it doesn't reflect any local issue. It is the kind of thing that runs the obituaries, what's going on in the churches, this type of thing. It is never editorially--it speaks of what is happening in Hong Kong or something, you know. It never has spoken to a local issue.

Q But in your opinion, it is not representing the black community.

A No, it doesn't represent the black community at all.

Q Okay. I would like to turn just a minute to the School Board issue. You mentioned that you were on or had been employed in the school system here in Waco.

A Yes.

Q Do you know approximately--are there other black teachers or members in this school system, either in high school or lower levels?

A Are there black teachers in the system?

Q Yes.

A Oh, yes, there are black teachers in the system. As far as the administrators, there is only one that I know of, and this was done since the integration and cross over and all this stuff.

Q Would you have any idea of the percentage of black faculty in the school system?

A It seems like to me it is 80-20.

Q Twenty percent black?

A Yes.

Q Okay.

A I think--

MR. RICHARDS: I'm not sure about the percentage of the faculty. I mean, that is what it is supposed to be. That is what it is supposed to reflect.

MISS LEVATINO: Supposed to be. I am checking for all--if he knows.

MR. RICHARDS: I think we are going to put the record in any way.

Q As I understand it, we have been talking about-- Mr. Richards mentioned earlier the 1956 vote to maintain desegregation.

MR. RICHARDS: Maintain segregation.

Q Maintain segregation. I'm sorry. Do you recall, was it phrased in that term or in terms of busing, or was it pro and anti busing?

MR. RICHARDS: Segregation wasn't--oh, yes, '56. I'm sorry.

Q Okay. Would you say--

MR. RICHARDS: Hadn't heard of busing in '56. Busing was still good in 1956.

Q I wanted to be sure that was what it was about. Would you say that the issue in Waco now is whether or not the schools should be desegregated, or is the issue by virtue of busing?

A I think the two of those circumstances are inseparable because of the neighborhood patterns and so forth. You can't conceivably have an integrated system without busing, but the question and hang-up is whether you bus one way or whether you bus two ways.

Q So the issue that seems to be very visible right now is should we bus or how should we bus. It is kind of a busing thing. It is framed in those terms?

A Well, busing takes a higher, you know, I think --but if it were not to bus, I was just trying to think. Even if it were not to bus, I'm not sure whether or not this community would be receptive to desegregation.

Q But my question is, what you hear now is the busing discussion. Is that where the antagonism seems to be between the blacks and the whites?

A I don't think so because you've got 3700 blacks being bused and only about 600 whites on a full time basis and there aren't that many whites that are being bused, you know. There is only one grade and that is the sixth grade, so you've got very few whites that are being bused. So, you've got 11 grades of blacks being bused and one grade of whites being bused, and if there is any hollering about being bused, it is the sixth grade parents. I can't see why the others would be that--you know, complaining that much. So I don't think it

matters that much. It is just blacks and whites getting together in school.

Q Okay. You still think they just don't want each other?

A Right, because a tremendous brunt of the busing is on the blacks.

Q Okay. Are you familiar with the recent statement made by the N.A.A.C.P. here, stating that they prefer to return to the neighborhood concept and not the busing?

A I'm familiar with it, yes. I heard that.

Q I believe it was pretty recent; about a week ago.

A Yes, it has been a week or two.

Q They too are--if that statement is true and they would prefer to remain in the neighborhood school situation, would that not mean there would be a certain amount of desegregated schools--I mean, pardon me, a certain amount of segregated schools?

A I think you have to determine first who is talking when you hear the N.A.A.C.P. You're not talking about somebody that is representing the whole community. You are talking about somebody that might be representing 20 or 30 people, you know. It is not, you know--it is one man that is being manipulated by a power structure and this kind of thing, and that does not at all--you can't look at the N.A.A.C.P. and say that is the way the black people feel, and this is what happened to the

school issue. The N.A.A.C.P. and the Black Federation were split on whether or not we were going to boycott, and the N.A.A.C.P. petitioned that they would not and this was part of the power structure used in the N.A.A.C.P. as a tool to still dilute the potency of the black community.

Q Well--

A I don't want, you know--when you say the N.A.A.C.P. comes out and says they want to return to the neighborhood concept, I'm not sure that is reflecting what the black community wants.

Q From what you are stating here, then, between the Neighborhood Council and the N.A.A.C.P. and the Black Federation, would it be a fair statement to say that there is a certain amount of disagreement between the--within the black community itself as to how to handle some of these issues that we are talking about?

A I would say that there is, yes.

Q Okay. Just--one more thing I would like to go into. Both Mr. George and Mr. Richards mentioned a little earlier some of the specific issues that affect, or were brought up in the Legislature. Are you aware of any particular issue in the Legislature in which any one of your representatives voted or responded in a way that would not represent the interest of the black community,

whatever those might be?

A I would hate--I would hesitate to answer that because I'm not really up on that the way I should be, and I don't know of any issue that directly affected us--I don't know the record at this point. I haven't checked the records to see.

Q Okay. Since 1960, have you ever contacted any of the Legislative delegations from this county with regard to any of your stands on particular issues or recommended or asked any member of the Legislature to act in some affirmative way?

A At that time it was fairly--a fairly futile kind of effort because it is just a feeling I was trying to describe while ago, that you just didn't have that kind of contact with the Legislator even to think that you could identify with something mutually with him, and up through this pastelection, I don't know of a Legislator that I was close enough to, or that I knew enough about, that I wanted to--it is something like, you know, voting for lesser of evils, or two evils or something, you know; something of that nature. That is the way my voting has been for a number of years.

Q But you generally never have contacted the Legislator either to disagree with something he has done or to recommend that he do something?

A No. I can't say I have had that kind of contact.

Q Okay. One more thing. You mentioned that you didn't think but about one out of three people in the black community even knew the political process of how you would become a candidate or even a part of the procedure that goes into electing a candidate,

A No, I didn't say one out of three. I said there might be three in the whole community.

Q Maybe three in the whole community. Okay. Has any of these groups, the Neighborhood Council or the N.A.A.C.P. or the Black Federation undertaken any kind of educational program or programs to acquaint the remaining--outside of the three that knew--the remaining people with the issues or with the processes?

A With the little that we have to work with, I think in the last four years or so, maybe, there has been an effort to try to educate the community more to what is going on, but still this is nothing on a wide scale. I think that if something could be found to show the entire black community, rather than just East Waco, that, you know, they do have some power, you know, and they can put this power together. If they can ever have a victory of some sort to show that they've got the power, then I think that we will be able to get somewhere, but at this point, it is all kind of a

frustrated, futile effort.

Q Did you notice an increase in voter turn-out in City Council or Legislative races in the past four years in the black community since you have been attempting to get some of the people?

A I have noticed an increase in the black precincts when there were black people running in the state and City Council races.

Q Okay. Have you any knowledge of the--if there was any increase in black voter--black precincts, in districts which could be termed black in Dallas, Houston or Bexar County in Legislative races?

A Have I noticed an increase in participation?

Q Uh huh.

MR. RICHARDS: You mean in those three counties?

MISS LEVATINO: Uh huh.

MR. RICHARDS: I'm not sure--

MISSLEVATINO: I'm just asking if he has any knowledge.

A Well, no, I'm not aware of--do you know--I'm just not aware of that.

MISS LEVATINO: I think that's all I have.

MR. RICHARDS: I have nothing further.

MR. GEORGE: Just one question and that is due to the school problem.

RE-CROSS EXAMINATION

BY MR. GEORGE:

Q In connection with the busing versus the racial--busing as an issue in itself versus the racial undertones in integration, didn't you tell me before about whites in the neighborhood of a new high school which is predominantly black moving from that area?

A Yes. I said that was--there has been a pattern whereby blacks who were assigned to the Jefferson-Moore School, which is predominantly black, have--and I am told through reliable sources within the school, that they have--

MR. RICHARDS: You mean white, don't you?

A I beg your pardon.

MR. RICHARDS: You said whites in the school, in Jefferson-Moore.

A Right. I'm talking about the white students in Jefferson-Moore School.

Q And those students lived near there?

A Right. They lived in the area and they were--right. They were assigned to go there. Right. They lived there, and they weren't the bused ones in, but those were the ones that were supposedly in that school because they lived closer to that area. They lived within the two mile thing. They have consistently come with the doctors' excuses saying it was an impairment to their health or something.

Q Although the children--the people have not changed their home, the location of their homes, the children are not going to their neighborhood school, but to some other school?

A Right.

Q That is not black, primarily black?

A Right.

Q They are going to predominantly white schools?

A Right. Right.

MR. GEORGE: That's all I have.

C E R T I F I C A T E

THE STATE OF TEXAS
COUNTY OF McLENNAN

I, L. E. Gaskey, Court Reporter at Waco, Texas, do hereby certify that the aforegoing pages numbered 1 through 51 inclusive, contain a true and correct transcription of the stenographic notes made by me on the 9th day of November, 1973, on the testimony of ROBERT L. GILBERT held at the McLennan County Courthouse, Waco, Texas to the best of my skill and ability.

I further certify that I am not of counsel nor am I related to the parties in the action, nor am I an anywise interested in the result of said cause.

WITNESS MY HAND this 16th day of November, 1973.

_____
L. E. Gaskey,
Official Court Reporter

* * *

STATE OF TEXAS
COUNTY OF McLENNAN

I, ROBERT L. GILBERT, hereby swear that I have read this deposition that I have given on the 9th day of November, 1973, and that it is, to the best of my knowledge, true and correct.

_____
ROBERT L. GILBERT

Subscribed and sworn to before me, the undersigned Notary Public in and for McLennan County, Texas, this the _____ day of November, 1973.

_____
Notary Public

EXHIBIT 1
INFORMATION ABOUT THE LEAGUE OF
WOMEN VOTERS CITY COUNCIL STRUCTURE STUDY

The League of Women Voters of Waco is concerned about making the democratic process work in Waco. In the 1970 city council election, the candidates preferred by the East and Southwest wards lost in the city-wide election. Concerned citizens wrote letters to the editor of the local newspaper questioning whether the present at-large system allowed for adequate representation for the citizens of Waco-particularly the East and Southwest ward residents. The NAACP publicly took a stand against at-large elections. Last March the League of Women Voters adopted as a local program study item, the study of the structure of the city council in order to come to a decision as to how the League would stand on this issue. The City Council Structure Committee has had one report meeting to the total membership of the League at which the accumulated information was presented. This information included a history of Texas cities, types of municipal government, a history of the forms of Waco city government since 1914, methods of initiating charter amendments, the charter commission, facts about charter amendment elections which changed Waco's form of government, city council election results, report from the book Institution Racism in America, by Louis L. Knowles and Kenneth Prewitt, and court cases concerning multi-

member districts. Since that meeting, we have been interviewing Wacoans of various interest groups to find out their opinions of the present method of electing councilmen. The Public Opinion Panel, which we will present to the League membership on March 7, is an attempt to reflect the opinions we have been collecting through private interviews. The following report is a summary of the information we have collected.

CITY COUNCIL STRUCTURE REPORT

City Governments--In 1912 the home rule amendment to the Texas Constitution was adopted. It authorized cities having more than 5,000 inhabitants to adopt by popular vote new charters or to amend existing charters which might contain any provisions not inconsistent with the Constitution or general laws enacted by the Legislature. Cities having 5,000 inhabitants or less would be incorporated under the general laws of the state or by special law. The following forms of government are adaptable to general law, special charter, or home rule cities: Mayor-Council (or aldermanic)--with a mayor elected at-large and aldermen elected from wards; Commission--with a mayor and commissioners elected at-large, the commissioners being the heads of administrative departments in the city; Council-Manager--the council being elective with legislative powers and the manager being appointive by the council with executive duties and powers. Mayor elected by voters or council. In Texas most home rule cities have the council-manager form of government.

History of Forms of Waco City Government

1914 Commission--at-large election of four commissioners and mayor, mayor and commissioners paid.

1923 Council-Manager--at-large election of 5 councilmen, mayor elected from council, pay repealed, city-manager appointed and paid, other city officials appointed.

1946 Mayor-Council--at-large election of paid mayor, six councilmen elected by wards, city-manager position abolished, other officials elected.

1948 Council-Manager--six councilmen elected by wards, no pay, mayor elected from council, city-manager appointed by council.

1950 Council-Manager--same as 1948 except for at-large election of councilmen, one residing in each ward.

1958 Council-Manager--same as 1950 except new charter adopted with plan commission added. (No change in form of government.)

Methods of Initiating Charter Amendments

1. Action of Council--City Council passes ordinance authorizing amendment election not less than 30 or more than 90 days after passage of ordinance.

2. Petition by Voters--A petition signed by 10% of the qualified voters of the city is presented to the Council asking for an amendment to put before the people at an election. The Council must pass an ordinance as above.

The Charter Commission--Created in spring of 1928 to study the charter and recommend charter changes to the city council. Terms of office are indefinite and meetings are not regularly set but when called by the council.

Interesting City Council Election Results and Amendment Elections

December 29, 1923--Charter changed from commission to council-manager, initiated by council at request of petition by less than 10% of voters. Reason--reckless management by inexperienced city officials, pay not sufficient to demand good job, too expensive (salaries), too much politics in commission form*

January 29, 1946--Change from council-manager to mayor-council, petition by less than 10% of voters, council initiated amendment, Reason--city manager criticized for salary, appointments, recommendations and qualifications, taxes too high, council-manager form not democratic.*

January 31, 1948--Change from mayor-council to council-manager with election by wards, requested by small group of citizens, initiated by council. Reasons--proposed change combines best features of tried forms, it is representative and efficient.*

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*Reasons given for changes are those expressed by proponents of the change and were taken from old Waco newspapers. Newspapers are not available for dates before 1919.

1950 City Council Election

East Ward		
Ben Teague	423	First black candi-
Louis Stewart (black)	233	date runs for
C. H. Scott	16	council

September 12, 1950--Charter change from ward to at-large with residence requirement, amendment initiated by council with no reasons given.

1951 City Council Election

Southeast	Ward	Total	Lee carries
Nelson Lee	116	898	ward but
E.C. Prickette	87	861	Wolfe wins
Ralph Wolfe	77	1048	election.

1952 City Council Election

East	Ward	Total	Gibson car-
Frank Greer	57	2597	ward, Greer
E.C. Gibson(black)	381	1013	wins elec-
C.S. Scovey	106	710	tion.
Dudley Rouse	125	2285	
Joel Martin	20	509	

1958 City Council Election

East	Ward	Total	Gibson carries
E.C. Gibson(black)	702	1752	ward, Bates
J.L. Bates	175	3608	wins election.

1962 City Council Election

Southwest	Ward	Total	Foster carried
A.M. Goldstein	365	4155	narrowly,
Laurel Dunn	65	423	Goldstein wins
Bill Foster	475	2586	election.

1964 City Council Election

	Ward	Total	
Northeast			Novian carried
Archie Novian	1451	6945	narrowly, Conger
Roger Conger	1417	8003	wins close election.
East			
Tucker Watson	61	776	Joe carries ward
Leslie Tooker	193	5094	by large vote,
Ernest Pardo	74	5502	Pardo wins elec-
Arthur Fred Joe (black)	1627	2946	tion.
Southeast			
A.M. Goldstein	474	6502	Sloan carried
Rollin Khoury	284	1932	ward easily, nar-
John Sloan	1135	6465	rowly loses election to Goldstein.

1965 City Council Election

North Central	Ward	Total	Fitzhugh carries ward, Wood wins election.
Bob Wood	734	3639	
Champe Fitzhugh	927	3246	

1966 City Council Election

Southwest	Ward	Total	Louden wins election, Foster carries ward.
H.M. Louden	382	5261	
Bill Foster	507	3052	

1970 City Council Election

Southwest			
Harold Mathias	588	5077	Capetillo carried ward, Mathias wins election.
Bill Foster	163	1168	
Domingo Capetillo	761	3725	
East			
Tucker Watson	55	1279	Dorsey carried ward, Radford wins election.
Thurman Dorsey(blk)	1571	4211	
G.H. Radford (black)	528	4710	

Arguments for and against our present method of election of councilmen--from newspaper clippings and interviews:

Pros 1. The Supreme Court decision of the "one man--one vote" rule held true in this case.

2. Wards are not competing, instead the City Council is a joint "for the good of the City" type of government. No petty grievance fights. Councilmen represent the City, not an area.

3. Residence requirements insure that councilmen are from all parts of the city.

4. Most of the Texas Home Rule cities use the at-large system: Of the 180 Home Rule cities 144 elect councilmen at-large with no residence requirements; 23 elect councilmen at-large with residence requirements; 9 elect their mayors and some councilmen at large and others by wards; 4 elect councilment by wards.

5. Minority groups have been gaining wider representation in the Waco government through appointments to commissions and boards.

Cons

1. At-large system does not allow fair representation of wards--block rule rather than local rule. See 1970 election results and others.

2. At-large system allows the white community to have an impact on the entire structure--to be in complete control. Waco is about 20% black and 12% Mexican-American.

3. At-large system does not allow for the spirit of dissent which is an important part of the democratic process. It does not encourage dialogue and talking about different views.

4. A candidate from a ward must campaign throughout the city which is more expensive and limits candidates to those known city-wide.

5. Councilmen elected at-large do not know their ward well enough to make intelligent appointments to boards such as the Model City Citizen Boards.

6. Boards and commissions are appointed--not elected, hence not representative. Also there are not enough minority members on boards and commissions in Waco.

7. Minority group members expressed they valued the city of Waco as a whole and used all parts of the city, hence they thought they could see the city as a whole and not just their wards. In contrast, north and west Wacoans are generally not very familiar with East Waco and South Waco.

Analysis of Racial Composition of the Appointed Boards and Commissions

There are 31 Boards and Commissions. Of these, 30 are composed of a majority of white members. The only exception is the Urban Community Development Advisory Commission, which is set up by wards and requires representation from each ward. It has 5 blacks, 6 Mexican-Americans, and 4 white members.

On these 31 boards and commissions, there are 238 members, 205 of these are white (86%), 21 are black (8 1/2%), and 13 are Mexican-American (5 1/2%), 16 boards or commissions are all white.

Quotes from INSTITUTIONAL RACISM IN AMERICA by Louis Kenneth Prewitt, 1969

"Institutional racism has created conditions against which black citizens are rebelling." (p. 78) The honored custom of our American heritage has been the privilege of voice in the political arena. This is where, according to our basic democratic principals, rebellion and voices of complaints are to be

heard and acted upon...Not so for the Black Citizens. Rather than being a tool for the Blacks to be heard in their struggle against racism in America, the so-called democracy has been manipulated by White America to protect racial privilege. (paraphrase p. 78) "The fundamental power of the vote for Black people has either been flatly denied or emasculate through political maneuvers. Local government is gravitating toward at-large rule by the White majority with virtually no Black representation." (p. 81)

Quote from "Electoral Reform Needed to End Political Alienation", by Joseph F. Zimmerman in the NATIONAL CIVIC REVIEW, January, 1971.

"Local government has been highly praised in the past as grass roots government which is close to the citizenry, yet most cities of size today do not merit this praise, that many citizens are alienated from their governments is reflected in the growing demand for neighborhood government in central cities. Although the demand emanates primarily from minority groups convinced the existing system neglects their special needs and renders them politically powerless, there is evidence of alienation in many middle-class neighborhoods."

Alternatives to at-large voting suggested by this aritcle are: ward elections; limited voting; cumulative voting; and proportional representation.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CURTIS GRAVES, ET AL VS. BEN BARNES, ET AL	*	CIVIL ACTION NO. A-71-CA-142
DIANA REGESTER, ET AL VS. BOB BULLOCK, ET AL	*	CIVIL ACTION NO. A-71-CA-143
JOHNNY MARRIOTT, ET AL VS. PRESTON SMITH, ET AL	*	CIVIL ACTION NO. A-71-CA-144
VAN HENRY ARCHER VS. PRESTON SMITH, ET AL	*	CIVIL ACTION NO. A-71-CA-145
FRANK A. ESCALANTE, ET AL. VS. MARK WHITE, ET AL	*	CIVIL ACTION NO. A-73-CA-115

JAMES GASKIN, ET AL VS. MARK WHITE, ET AL	*	CIVIL ACTION NO. A-73-CA-146
WANDA L. CHAPMAN, ET AL VS. MARK W. WHITE, JR., ET AL	*	CIVIL ACTION NO. A-73-CA-155

DEPOSITION OF TOM P. MOORE, JR.,
given at the McLennan County Courthouse, Waco, Texas on Monday, November 26, 1973, beginning at or about 1:00 P.M.

A P P E A R A N C E S

Hon. David R. Richards, Attorney at Law, 600 West 7th St., Austin, Texas, appearing for and on behalf of the Plaintiff Intervenor.

Hon. Elizabeth B. Levatino, Attorney at Law, Supreme Court Bldg., Austin, Texas, appearing for and on behalf of the Defendants Briscoe and Warren.

REPORTED BY: L. E. Gaskey, Official Court Reporter, Notary Public

A G R E E M E N T

It is agreed by and between the parties hereto, through their attorneys appearing herein, that the Plaintiff Intervenor may take the deposition of the witness,

TOM P. MOORE, JR.,

at this time without service of notice of time of taking said deposition and without the issuance of a commission thereon, said deposition being taken with the same force and effect as though all requirements of the rules and statutes had been fully complied with.

It is further agreed that said deposition, or any part thereof, may be offered in evidence by either party, subject to any and all objections to any question or answer herein, which may be made upon the offering of this deposition in evidence upon the trial of this cause, except as to the form of the question, which objection shall be made upon the taking of the deposition, with the same force and effect as though the witness were present in person and testifying from the witness stand.

It is further agreed that this deposition may be returned into Court and used on the trial of this cause without said deposition being signed by the witness.

* * *

D E P O S I T I O N

TOM P. MOORE, JR.,

after having first been duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

BY MRS. LEVATINO:

Q Would you state your name, please?
A Tom Moore, Jr.
Q Are you a resident of Waco, Texas?
A Yes.
Q How long have you been a resident here?
A Fifty-five years.
Q And you are a licensed attorney?
A Yes.
Q When were you licensed?
A 1943.
Q Have you practiced in Waco continuously since you were licensed?
A Yes.
Q Would you briefly give us your background in elective political offices, both those which you have held and which you have run for?

A I have held two. I was District Attorney here for six years, in the fifties, and I was a member of the Legislature for six years, beginning in 1968 session, I guess, in the 1967 election, I guess, or was it vice versa? Any way, about that time.

Q Did you run for other political offices?

A Yes. I ran for Attorney General in 1956, unsuccessfully, and I ran for the Texas Senate in '72.

Q Did your activities in political--in the politics of Waco, in elected politics, begin about in 19--the 1950s when you ran for District Attorney, or were you active prior to that time?

A Well, I guess I was Assistant District Attorney after I got out of the service in 1946 and really had not active participation to speak of until, I believe, the Stevenson campaign in '52. Is that the right year?

MR. RICHARDS: Coke or Adaili?

A Adaili.

Q And since that time have you been continuously active in politics in Waco?

A I would say I have since that time continuously.

Q Would it be an accurate label to put on you to say that you are a Liberal Democrat?

A Yes.

Q Has that label been given to you by the press or other elected members of the Texas Legislature or people in this community? Do you think they view you as a Liberal Democrat?

A Usually preceded by some adjective.

Q When you decided to run for the Texas Legislature and other campaigns, such as Senator, was there any specific groups in Waco or McLennan County that you contacted to get their support prior to determining whether you would run?

A Yes.

Q What would those be?

A Did you ask me--all my races?

Q Yes.

A Well, yes, sure. Of course, you always do. When I ran for District Attorney back in the fifties, I contacted every group that I knew about that could be identified as a group in order to seek support.

Q What was the nature of these groups?

A Well, I went to every bank and town. I went to all the insurance companies. I went to all of the old established people that I recognized as having some authority and influence in the community. Waco isn't that big a place and our family has been here--I was

born here and I knew them. I think maybe I might have sought out the labor support at that time, but my recollection is that the labor support at that time was more of a handicap in Waco, in the early fifties, and which I believe they did support me, I think I asked them not to put me on their slate or something, in that sort of a way. I had some familiarity with the black community and worked rather extensively with the black preachers and with one fellow that I recognized as a leader particularly. His name was Roscoe Scott. I don't suppose that you could say Waco has a Jewish vote, but I remember I got more money from the Jewish friends that I had here probably more than any other ethnic group any way. Of course, when we are talking about money in those days, you know, five dollars was pretty good, and by the time I ran for the Legislature, the line had been drawn between Liberals and Conservatives rather--well, very substantially in this county and since I had supported Adaili Stevenson and Ralph Yarborough, I depended heavily upon what is called the liberal vote, which at that time, at least, was organized labor and blacks and Mexicans, and more or less what I think of as the brass collar Democrats in the rural areas who are not liberal by any means but remain loyal to the Democratic party, or did up until that time.

Q Now, these groups that we are talking about, did any of them engage in the slating or endorsement, both in making slates or giving money as a group?

A Yes. Well, the labor people, of course, put out their cards to their members recommending their candidates and the--I guess it is the Texas Manufacturers Association or some of your business groups also put out those guides.

Q Did either the labor group or the business group that you just mentioned, to your knowledge, ever solicit people to run? In other words, did they ever contact you before you made your first race in the Legislature?

A No.

Q Do you know of them contacting anyone else?

A If they do it, I'm not aware of it. I can't think of any instance. I guess almost invariably it works the other way. Young fellows or others, really, interested in working for the Legislature get out and solicit the help rather than the other way around, I believe. It might be possible that the business type folks do solicit candidates, but I have not known of it if it has happened.

Q Would it be fair to say that in your opinion the decision of who will be the candidate for the State Legislature race is generally up to the individual after

he has talked to friends, to people in the community, to make that decision rather than identifiable groups soliciting?

A I believe that is the case.

Q You said that labor did involve, or has passed out slate cards, and so forth. Have you ever appeared on them?

A Oh, yes. Yes.

Q Although originally back in the fifties you weren't identified--

A I don't think they did that early in the game, but rather they would put an ad in the paper and willie-nillie throwing in the names of all the candidates that they preferred, and as I was trying to explain to them, can hurt each of the candidates and can't really help any of them, but I don't believe they put out cards that early.

Q Does labor, to your knowledge, do any slating of races other than State Legislators or statwide races?

A No.

Q They never--

MR. RICHARDS: You mean by that in the primary, or are you talking about City Council and School?

Q Yes. Races other than statewide elections.

A I think they do on the city level at times.

Q To your knowledge, have they ever slated any person that would be a member--that would be black or Mexican American?

A I can't swear to it, but I feel certain that they have supported the black and the Mexican candidates.

MR. RICHARDS: You mean in the City Council races?

A In the City Council and School Board.

Q Okay. When you were campaigning for both the District Attorney's office and the House of Representatives and the Attorney General and the Senate races, did you conduct any part of your campaign in the areas of Waco that are generally considered black or Mexican American?

A Oh, yes. Sure.

Q What type of contact did you have with the people in that area? Did you seek them out, or did they ask you to come speak to them?

A I think there might have been a little of both, but because by that time I had been pretty well identified as being on the liberal and therefore the black side, you see, so I had an entree from working for the

National Democratic Ticket that was heavily supported by the blacks. Let me see now. What--in the early race, first race, the primary contact points were the preachers in the black community, and we were all--the candidates were invited to address the meetings at churches and to express views and to answer questions.

Q Was there a relatively good turnout?

A Oh, all of them, yes. Sure. But now some of us who were more intimately associated with the blacks and their political movements were invited to some meetings that weren't general, where they organized to support us.

Q Would it be fair to say that generally you had a good report and acceptance with the black people in this community?

A Oh, yes.

Q You said that they did organize their blocks or really work for you more than just vote for you. Is that correct?

A Yes. Yes. My first race for the Legislature was a special election. We had some black leadership and some of our whites who had been working with them in other races, attempted to organize all of East Waco, which is a solid black community and about four voting boxes. In the primary, and while I carried those boxes, we didn't

get as heavy a turnout as we felt we needed. There were about eighteen candidates, one of whom was a Republican. He ran first and I ran second in the primary, in the first go-round.

Q When you say first, do you mean overall or in the black box?

A Over all. Over all the county. So, in the run-off between the Republican and myself, with the help of--primarily the help of a fellow by the name of Van Pell Evans, we organized East Waco with down to block leaders, to where every door was knocked on on election day, and we turned out a much higher percentage of the vote, and my recollection is I got about 90% or better. So, yes, we did have organization over there.

Q Has this organization that you started with your particular election in introducing blacks, or at least soliciting their votes, getting them to the polls, did that organization--was it ever used again, or did it remain in East Waco or was it visible--

A Well, yes. I don't think it has ever been as successful as it was in that particular race--possibly in turning out the vote for Hubert Humphrey. Although we didn't get out near the percentage of voters in that race--but what happened, as I see it, was that by this time we had a more militant black group of younger fellows coming

along and where we used to go over and find the headquarters and put a telephone in it and line up automobiles so people could phone and get rides to the polls, we set up the charts showing who was working each block. The blacks wanted to do this themselves and I would say they have done a very poor job. They didn't turn out any vote at all for Ralph Yarborough, for instance, who had traditionally carried those boxes by 90 or 95%, in getting out large votes, and his defeat in his last race for the Senate, his response in East Waco was terrible.

Q Then the organization or the work in the voting process that had turned out a good percentage for you in your vote, in your race, didn't seem to be there the next time around?

A No. It hasn't been there since. Now, this--don't get the idea--

MR. RICHARDS: Don't get your time frame compressed too much. Remember, this is a six year stand.

A Yes, and it is trailing off and it is--I think--of course, this is a complex situation, the other factors involved. I think the blacks have just become so

discouraged. It doesn't make any difference who runs, they feel they are not going to get much out of it one way or the other, so they just quit voting.

Q Okay. Let me ask you this. They turned out well for you. Did you have much contact with them while you were in the Legislature as a Representative? Did they approach you with regard to their feelings on legislative issues, the things they wanted you to do for them, or consult with them on local issues?

A Well, I guess I heard from them about as--in proportionally as much as I heard from the white community, but I don't recall any particular pressure points or campaigns on behalf of the blacks for any particular legislation.

Q Is it your recollection where they were complaining of stands which you may have taken, or any stand they felt you should have taken?

A No, I don't recall any. No. I think the complaints I had were from the conservative side of the spectrum. I don't recall the blacks being vocal against anything I did in the Legislature.

Q Would you think the very fact they turned out for your election and presumably were not unhappy with the representation you gave them, what would lead to their frustration in not wanting to go vote in another election?

A Well, for instance, back in fifty--what--54, we had a Supreme Court decision that would end segregation and twenty years later nothing much had happened, for instance, and this sort of thing. It has been an awfully slow process or really lack of progress for the blacks, as they see it, and really, I'm inclined to agree.

Q Would you think it would be fair to say that their frustration or feeling of not doing any good is more related to their general situation in the community as opposed to what their Legislature did or didn't do, the Texas House of Representatives legislators?

A I think that is probably correct as a generalization because looking back on at least my six years in the Texas Legislature, it is difficult for me to think of any particular vote that I would classify as a pro black or anti-black vote. I can think of a lot of votes that I thought would be helpful to the blacks simply because it would be helpful to all of the more deprived people of this state, but not as blacks specifically, you see. It is hard for me to think of any such votes.

Q In the votes that you felt were generally of benefit to the more deprived citizens in this State, would that include the tax bill, the minimum wage bill; this type of economic bills?

A Yes. The consumer protection; just about any vote that is classified as "liberal" in Texas, you see.

Q Well--

MR. RICHARDS: We will stipulate that Tom has an excellent voting record.

Q Okay. Going back a little bit more to the organization of the blacks, the political organization, have they been, or have they served, as delegates to County conventions, and have they been elected to serve as such in the Democratic County Conventions?

A Yes.

Q Have they been delegates to the State Democratic Conventions?

A Yes.

Q In electing--you were Chairman of the McLennan County Democratic delegates to the State Legislature. Is that correct?

A Yes. Three or four times.

Q Generally, was the Chairmanship determined--would they have to have support of the black delegations in order to get the Chairmanship?

A Well, I would say they were the difference. We have had rather heated fights over control of the delegations here

and the liberals have won every time they wanted to, and usually when they won, like I say, in three or four conventions I know they elected me Chairman. I couldn't have made it without the black vote. No, I don't believe I could have.

Q Okay. Do you think--have there been any restrictions as to the black voting in McLennan County? Have they ever been prohibited from registering to vote or voting to your knowledge?

MR. RICHARDS: Within what period of time?

Q Any time within his knowledge.

A They have been voting here ever since I have known about voting.

Q Would you say that at least within the past 30 years?

A Yes. All I know of is hearsay from the older blacks who told me they voted when they were young men here.

Q There have been no legal attempts to stop their registering to vote or voting?

A Not to my knowledge, and I know there haven't been any in the last 20 years.

Q In your opinion, what is the general voter turn-out in those boxes or wards that have been termed black?

MR. RICHARDS: Let's limit this--you mean currently?

Q Currently. Within the past--

MR. RICHARDS: And I guess it may vary. You are talking about the Democratic primary, or general election or School Board election. If there is a difference, I wish you would develop it.

MRS. LEVATINO: Okay.

Q In your opinion, what is the general turn-out of the black vote in the Legislature of State House of Representative races in about the past six years?

A Oh, gosh, I don't know. It would be so much easier to get the record out.

Q No. I'm just asking for a high and low.

A Well, the turn-out has not been good. Thirty percent would be a high turn-out. I don't know that we have ever gotten any black box out in excess of 30%. We might have on one or two occasions, maybe, for Ralph Yarborough or for me in my first race, or for Hubert Humphrey, but generally, fifteen, eighteen, twenty percent is about it, and this is not just the blacks

[19]

either. I mean there are many white boxes that don't vote any better.

Q Do you have any knowledge as to whether or not a generally low percentage was also reflected in a race for City Council or School Board or County Commissioner?

A Well, it depends on the race. Now, we did have one contested race for City Council between two blacks, Dr. Radford and Thurman Dorsey, which brought out a very heavy vote in the black community, but generally, the overall vote in the City Council races in Waco is probably less than 20%.

Q When you were a member of the Texas Legislature, did you nominate Representative Dan Holmes for Speaker of the House?

A Yes.

Q Is he a black representative from--or at that time--from Dallas County?

A Yes, he was.

Q Did this--I believe this happened in 1973--no, 1972, I believe, special session in 1972.

A I don't think I was there in '72, was I?

MR. RICHARDS: I remember you doing it and I believe it was in special session--

[20]

MRS. LEVATINO: Let's go off the record.

(Off the record discussion)

Q After the nomination of Mr. Holmes, the next elections that followed shortly thereafter, you went for Senator. Is that correct?

A Yes.

Q Did your nomination of a black man for Speaker of the House become an issue at all in your senatorial race?

A No.

Q Did you carry Waco and the black boxes in your senatorial races?

A Yes.

Q Do you recall any issues in either of the senatorial race or your legislative races which were overtly or covertly racial in nature?

A I don't remember any. I'm sure it is used because I have had such heavy support among the blacks, but it doesn't reach the open level. I never hear it. I feel like folks talk about it at the country club, maybe.

Q In other words, you say it is used by the conservatives; he's a friend of the blacks?

A I would think so, but nobody is that blatant on that delicate subject, because it can backfire, so I don't

hear it. I don't get any feed-back on it if it is being used.

Q Do you ever get any feed-back about criticizing you for nominating a black man?

A No. Never heard it mentioned. I don't think very many people knew about it that cared.

Q When you were running for the Texas House of Representatives from this district, what cost did you incur--I don't mean numbers, but what type of campaign expenses did you incur in terms of media or volunteer; where was the bulk of your expenses?

A Well, I made some races before we had television and in those, my expenses were rather nominal. My recollection is in running for District Attorney we probably spent less than $3,000. I guess newspaper ads were the most expensive and purchasing hand cards, and I think we passed out matches in those days.

MR. RICHARDS: In those days, you were using those old black and white posters.

A Yes. Posters, and when you split up $3,000 it doesn't make much difference how you use it. You are not going to spend a whole lot on any one thing. Now, later, television ate up by far--television and radio. We

allocated the bulk of our budget to those two. I have never used direct mail to any great extent; maybe to special groups, if I could get some veterinarian to write all veterinarian, in the district or the CPAs or the doctors, or whoevers. Some of that has been done, usually by people in those groups at their own expense, but I have never spent a great deal of money on direct mail.

Q In terms of the media in this county, you have one newspaper. Is that correct?

A Well, we have a number of newspapers, but primarily, yes, we have the Waco News Tribune and Times Herald, which is afternoon and morning, and now we do have some smaller papers, the weeklies.

Q The television coverage which you have used is county-wide. Is that correct?

A That's right, and we have two stations.

Q And the radio coverage is also county-wide?

A Yes. We have quite a few of those.

Q If you were running in a district which is smaller than a county-wide district, presently in this area, do you think you could reduce any expense for radio or television or newspaper?

A No.

Q You think you would still use radio, television and

newspaper?

A Yes. You would save a little on newspapers, I guess, in your weeklies. We have papers at West, Mart, McGregor, Moody and Crawford, I believe. Sometimes they have one at Crawford, and we have one over in the Bellmead area which is--I don't know whether it is a weekly now or bi-weekly, so you would save some, you see, in two or three weeklies.

Q You think if your district--if we were talking about a district half the size of the present district, that you could ignore using the media entirely?

A Well, the fact that it were split in two wouldn't make any difference. You could ignore it now or you could use. Most candidates use it as much as they can raise the money for, but whether it was two districts or one, you would have the same coverage any way, so it wouldn't make any difference. You wouldn't save any money if it were cut in two.

Q What I'm saying is, if you had a single member district or a district that was half the size of this district, would you as a candidate not use the newspapers, television and radio?

A No, I wouldn't. That would not affect my campaign at all.

Q You feel you would still have to use that media to get elected?

A Yes.

Q Okay.

A I see. I don't think cutting this county in half would make it possible to make a door to door campaign, really. I don't think it would make that much of an appreciable difference.

Q Okay. Has a black person ever run for the Texas House of Representatives in the Democratic primary to your knowledge?

A No.

Q Do you think a black person could be elected in the present multi-member district in the Democratic primary?

A No, not in McLennan County.

Q Do you think that if this district were divided into two districts that a black person could be nominated in the Democratic primary and could be elected?

A No.

Q Why do you think that way?

A Well, I just don't think that our people have reached that degree of sophistication in this county. I do not think that blacks, no matter how well qualified he is, could be elected to the Legislature in this county since they only make up, maybe, what--20%?

MR. RICHARDS: Eighteen to 20%.

A Eighteen or 20% of the people. So, I can't conceive of any way you can cut the county up enough to give them a majority unless we had more than two members.

Q Unless you had more than two districts?

A More than two districts.

Q What, in your opinion, would be the effect on the representation and response to the needs of the black community and the Mexican American community if the present multi-member district were divided into two single member districts?

A I don't think it would help the minority groups at all and I am really terribly afraid that it might hurt them. Right now, and for the past--I want to say ten years-- the blacks, by voting solidly as they do, and as your voting records will show you, have pretty good influence on the candidates. They are sort of a swing vote, particularly in a close race, and most of our races are fairly close here. Now, if you divided this county half and half and try to get all of your blacks into one side, which could be done, practically all of them--at the same time you are going to put all of your conservative people into the other district. What I am afraid this might tend to do is to polarize the situation whereas now, candidates--two candidates selected at large are receptive to the ideas of the blacks and are

politically wise to do so. If you divide blacks into one side, say, and whites into the other, to simplify it, you are going to have a candidate on the conservative side who will have to become more and more conservative. I won't say that he will become racist, but there is a possibility. On the other hand, that half that has the blacks in it is not going to have enough blacks to elect a black. What could very well happen there, and what I'm afraid of is, right now--and to get into specifics, Representative Lane Denton would wind up in the district with the blacks and he is a liberal. I can visualize an attractive black running against Lane and pulling off the black vote in which event there is practically no more liberals left in that half of the county. The whites in that part of the county tend to be very conservative, the Wallace type of voter. Now, what would happen, I'm afraid, is that if an attractive black ran, pulled away the black votes from Representative Denton, whom I class as a liberal to a moderate candidate, he might very well run third, putting a black and a Wallacite type person into a run-off. In that event, in my judgment, a Wallacite would win. This wouldn't help the blacks at all. It would hurt them.

Q Okay. So would it be fair to say that in your opinion that actually the present multi-member scheme gives the

blacks not only an opportunity to participate in the process, you said they are in the Democratic County Conventions and do have a certain amount of organization, but also require those people who are elected to be responsive to the blacks?

A I think so.

Q Turning now for a minute to the Mexican American in this community, is there any way that given the percentage of Mexican Americans in McLennan County, which I believe is approximately 7%, that they by any drawing of the districts could ever elect a Mexican-American to represent them?

A Well, not on those terms. We have had Mexican-American candidates who have polled an appreciable number of votes in the city elections. I don't think that your average white voter has as much distaste for voting for a Mexican-American as he would voting for a black man in this county.

Q Would he--

A But I don't think the Mexican-American, the Chicano vote as such, would ever be sufficient here, or at least in the forseeable future, to elect a Mexican as such, as a group. As you say, they make up maybe eight or nine percent of the county. I don't know. Probably less than that. They have a very poor record of turning out,

or qualifying their people to vote out of that low percentage, and recently, those who politically active profess to be supporting the LaRaza Unida Party and are not going to vote in the Democratic or Republican primaries any way, so I think the answer to your question is no.

Q Do you think that generally the same situation that we described earlier is applicable to what would happen to the black interests--would it also apply to the Mexican-American?

A Well, perhaps to a lesser extent. I don't think any of our members of the Legislature have had any real problem voting for such things as bilingual educational bills and whatever the Mexicans are interested in as Mexicans any way, really.

Q But you think the effect on the single member--the effect of the single member district on the Mexican American would be approximately the same?

A No, I don't think there would be enough of them to where it would be any effect really, one way or the other.

Q For as long as you were in--during the six years that you were in the State Legislature, I believe in at least one of those sessions there was a redistricting--during one time when we had a redistricting, did you ever see the State Legislature attempt to, or express a desire,

to depart from the multi-member district concept?

A Not until the Court ordered it, if that's what you are talking about.

Q Yes.

A No, I don't remember the Texas Legislature doing anything about single member districts until they--the Supreme Court said they had to.

Q In your opinion, was the general tendency of the state policy on having multi-member districts, as the area got large enough for an additional member, be what you might say a relatively long-standing state policy, that they would add another member rather than try to make another district?

A I think that is right.

Q Have you ever discussed with any black person in this community the possibility of their running for the Legislature in the Democratic primary?

A No. I don't think any of them have ever run for city or county positions, however, that they didn't come around and talk to me. We have had a couple that ran for County Commissioner. One of them was Van Pell Evans, who was a political buddy of mine for years, and the other was Willie Calvert, who has been right in there plugging with out--when I say our group, you know what I am talking about, the liberals from McLennan County.

Q Would you see the problems of blacks in McLennan County especially, and perhaps statewide, to be often split down a liberal-conservative line as opposed to a black-white line?

A That's the way I see it.

Q And so, would it be fair to characterize your opinion as a type of representation which a minority would get--would depend on the candidate's political philosophy more so than the color of his skin?

A Oh, sure. Most certainly. That has got to be true.

Q In your opinion, would a black have to--if he were to run for the State Legislature, would he have to disassociate himself with the black community in order to get elected?

A I just don't think he would be elected associated or disassociated any more than he could be elected as President of the United States. I don't think this country has reached that point, nor has McLennan County.

Q One last question. Have you ever experienced--in your experience in working with the Democratic Party here in McLennan County, have blacks been excluded from working within that party? Have they been moved to keep them from being precinct chairmen or county delegates, or delegates to the State Democratic Convention, or have they been excluded from the general decision policies of

the Democratic Party in this county?

A No. You will get complaints, of course, from blacks who go to a precinct convention and find they are heavily outnumbered, but the same damned thing happens to the liberals or the conservatives. They go to their precinct convention and are heavily outnumbered. They just get beat, but over the counter, if they've got enough votes, they win and they go. I don't know of any exclusion.

MRS. LEVATINO: That's all I have for now.

CROSS EXAMINATION

BY MR. RICHARDS:

Q Tom, I have a few, but not too many. I have found an old Waco Times-Herald, a July, 1958, that speaks of Dan Pell Evans as being--it is the circled portion. I just wanted to see if you recall to mind that he was elected as a Democratic Precinct Chairman or Committeeman in 1958; if you will accept from me--

A Okay.

Q And he was the first Negro, I gather from that story at least, in the McLennan County District to be elected to the--serve on the McLennan County Executive Committee.

Does that comport with your recollection?

A Yes.

Q He ran for County Commissioner later than that, was it, Tom.

A I believe it was--let's see, '58--I don't know. I don't know. It was about that time.

Q Okay.

A The big deal for Van Pell was when he got to be Election Judge. That goes along with being on the Executive Committee in this county, or did.

Q And still does?

A Yes. They do both.

Q They--

A The blacks really wanted to run their own election over there, and now they head up every box where they have a majority of people. That was brand new. That's right.

Q The first break-through was in '58. In fact, I see that Evans campaigned--at least, the doctor says if he is elected, he will have the right to hire the people who work at the polls.

A That's right. That's right.

MRS. LEVATINO: Do you want to mark it?

MR. RICHARDS: Plaintiff's 1.

(Whereupon the above described document was marked for identification as Plaintiff's No. 1)

Q I think you said there have been at least two times a black candidate filed in the Democratic Primary here; one was Evans' race for County Commissioner, and one was--

A Willie Halbert.

Q Willie Halbert. Did he run once or twice?

A Well, I'm not sure.

Q Whatever the case is--

A I know he ran once. He might have run twice.

Q Whatever the case, neither one was successful?

A No.

Q Tom, let me take you back a little bit on your history, and if I'm wrong, I'll have to check it. Am I not correct that when the Texas Legislature in 1971 redistricted the State of Texas--I'm not talking about the first bill that came through, the one that was later declared unconstitutional by a State District Court, you remember in Craddock vs Smith.

A Yes.

Q Isn't it a fact that they had taken McLennan County and allocated one legislative seat to McLennan County and then carved the county--placed the balance of the county's population in two, I believe, two separate

districts? Do you remember back with me--

A Yes. Sure, I remember. They drew a circle around the City of Waco, or part of it, and made that one district.

Q With one legislator?

A With one legislator, and then they gave the--they connected part of the county to Coryell County and part of Bell. You see, they cut Bell up into three parts also, and then put the rest of McLennan County with the other part of Bell County and with Falls and Milam Counties.

Q So at least--the legislative plan that was adopted by the Texas Legislature would have carved McLennan County into three separate districts, each of which would elect one legislator?

A Right.

Q The multi-member district, which is now here, was a creature of the Legislative Redistricting Board that was convened after the original--

A After, yes. However, they--you know, they weren't trying to be good to us and give us a single member district.

Q No. No.

A They tried to eliminate four members of the Dirty Thirty.

Q You're right. That was--I'm well aware of the background of it.

A It did do that.

Q Okay. I assume that that legislative redistricting plan was opposed by you and Lane Denton at the time.

A Right.

Q I don't want to go over ground that we have talked about before the deposition, but I believe you told me that you had looked at the deposition taken of Robert Gilbert here.

A Yes. I read the first part of it.

Q And we talked a little about the history in terms of blacks in the county, or at least the City of Waco, with respect to the City Council.

A Yes.

Q I believe you did tell me that your recollection comported with his that the City of Waco went back to at large elections some time in '58 or '60 when the first black ran for City Council and looked as if he might be elected. Is that the way you remember it?

A That's right, and I agree with everything he had to say about the City of Waco city elections. There is no question about it. I think that with blacks making up approximately 20% of the population, and when you have six members, I think, on the City Council, they are entitled to one, and the single member districts will bring this about, and could. Domingo Capitillo ran as a Mexican--he didn't run as a Mexican

who ran and carried, I think, his voting--I mean his ward had about eight voting boxes in it and he carried seven of them, roughly that percentage, and lost heavily and one upper-middle-class, rich, white Anglo Protestant district--and lost the race. I just think that was bad, but I don't think this applies to single--to the legislative districts for this county.

Q But you're not--I wanted to clear it up. The same thing happened in Capitillo's race as happened in the Dorsey race; that is, Capitillo won in the ward in which he was running--

A They had had eight voting boxes, and always one of them was outside of the, you know, the Mexican working class and that type of folks. He carried all of them but one box, and was beaten so badly in that box he lost the race, and Dorsey, Thurman Dorsey, ran against Dr. Radford, both of them blacks, for the City Council. Thurman Dorsey carried the boxes heavily, as I recall, but was defeated city-wide.

Q By the white vote?

A By the white vote, which I think was bad. If I thought cutting this county into two legislative districts would help that situation, I would be for it, but I don't think it would. As I said, I think it would hurt, plus the fact, Dave, let me get this on the record--if you

polarize your vote in this county, here we've got two fairly moderate fellows down there taking care of McLennan County and voting together and in conjunction with the wishes of the people up here; if you split the thing and make it a conservative district and a liberal black-type district, you in all likelihood are going to have two fellows down there voting opposite each other on all crucial votes, and this isn't going to help our county. It is going to hurt it.

Q I understand that argument, and that is the one that most counties feel. So we can get the dates put into focus, I think you and I talked about trying to reconstruct your legislative election, and I think it would be correct, the first session you served would be the one that began in 1967.

A Yes.

Q And then elected and nominated in the Democratic Primary in '68 and served the '69 session and again nominated in '70 and served the '71 session in the Legislature. The first race which you made in '67 was a special election. Is that right?

A That's right.

Q Created by the resignation of the encumbent legislator?

A George Cowden was elected and resigned before he took office.

Q You indicated that your opponent in that special election, or at least the run-off, was an avowed Republican, but is it generally true they field a candidate here in the general election, local races?

A Yes. They have recently for about five or six years.

Q Any success?

A No.

Q I take it, if it is fair to characterize the way a person decides to run for office in this county, at least as far as the Legislature is concerned, and conducts his campaign thereafter, has been pretty much an individual operation, his making his own decision to run and doing the best he can to solicit votes wherever he can find them.

A Yes. I think that's right.

Q If I'm correct, Tom, I don't want to misstate what you told us, but as far as what you told us, the high point in terms of black turn-out is probably the organizational effort that was put forth in your first legislative race.

A Yes. I think that is true.

Q Since then, you have observed a decline most noticeably, I think you indicated, in Ralph Yarborough's last race for the Senate?

A Yes. They kept telling us they were well-organized; they

had their block captains and everything, but we went over there on election day and nobody was working the streets, and we hastily got together a bunch of white folks, and that doesn't work too well, to work door to door. They just weren't there.

Q We went over--I showed you some old legislative copies from the House Journal of '57.

MRS. LEVATINO: Are you going to offer this one?

MR. RICHARDS: Yes.

MRS. LEVATINO: We object to that on hearsay.

MR. RICHARDS: You do not believe that Van Pell Evans was elected as Precinct Chairman in 1958?

MRS. LEVATINO: No. That is not the part I don't believe. It is some of the other stuff that is in this.

MR. RICHARDS: Well, what specifically, so that I may be able to cure it.

MRS. LEVATINO: Are you offering--

MR. RICHARDS: I am offering that portion that is encircled that described the fact that Van Pell Evans was the first Negro to serve on the McLennan County Democratic Executive Committee.

MRS. LEVATINO: Just that part?

MR. RICHARDS: The vote ran pretty close to that relationship on all races in box 10 where the Negro vote was heavy. That's what I'm offering it for and Tom's recollection is that that is consistent with his recollection.

MRS. LEVATINO: All right. This is all you are--

MR. RICHARDS: Just the parts circled in blue right there.

MRS. LEVATINO: All right. Go right ahead.

MR. RICHARDS: Did you mark these for me?

(Whereupon the hereinafter described documents were marked for identification as Plaintiff's Exhibit 2, 3, 4, and 5)

Q Tom, I am handing you here something that we have looked at before, which are pages from the House Journal of April, 1967, and each of them--well, I can't--three of them are April 17, '57, and the other one is maybe the 18th. All of them record certain house votes, and I am going to direct your attention to three legislators and just see if you can confirm that they were McLennan County legislators at the time. First, is Watson--Murray Watson.

A Murray Watson. That's right.

Q He later became the State Senator from the district?

A Yes.

Q Joseph, Tom Joseph, was a McLennan County legislator. Is that correct?

A That is correct.

Q Then McGregor of McLennan County?

A Yes. That's Frank McGregor.

Q Yes.

MR. RICHARDS: I will just offer them and, Tom, you can--

MRS. LEVATINO: No objection.

MR. RICHARDS: That's all we have.

MRS. LEVATINO: I have just a couple of questions--

MR. RICHARDS: Just a second. I want to check my notes.

MRS. LEVATINO: Oh, I'm sorry.

MR. RICHARDS: That's all.

RE-DIRECT EXAMINATION

BY MRS. LEVATINO:

Q I would just like to clarify what we were talking about when we were talking about the redistricting bill passed by the 62nd Legislature in 1971, prior to that bill, was McLennan County a multi-member district?

A Yes.

Q Is it true, or fair to say, that the reason for splitting up McLennan County into three separate counties was to defeat certain encumbents as opposed to considerations of representation to minority persons or that type of--

MR. RICHARDS: Well, I'm going to object to--we

are going to object to the purpose. It was a manifestation of legislative policy in our view, for whatever, good or evil.

A Well, I will answer the question.

MR. RICHARDS: Sure. Sure.

A In answer to your question, I would say that Delbert Jones, who was Chairman of the Re-districting Committee--

Q Excuse me. Do you mean Delwin Jones?

A Delwin Jones.

MR. RICHARDS: Delbert--

A Yes. Made speeches in this district to the effect that he had done just what he said, that he had done his dead level best--these are his words--to so divide the district that no liberal would ever be elected up here and he made that statement to the Gatesville Chamber of Commerce--I mean the Killeen Chamber of Commerce, not knowing there was a reporter there.

Q In your opinion, the phrases that you used, no liberal will ever be elected from here again, did you think that was specifically aimed at the people that were--

especially were aimed at you and Lane Denton at that time?

A Yes. We knew it was because it happened that in these pie-shaped districts that they made were members such as Lane Denton, myself, John Bigham from Temple, and Dan Kodiak, Cameron; all of whom had encouraged the displeasure of the Speaker, Gus Mutcher.

Q But prior to that time you had had a multi-member district?

A Always, as long as I can remember.

MR. RICHARDS: Just to protect Tom here, a combination of multi-member and floater.

A And floater, yes. From time to time we have had a floatorial representative.

MRS. LEVATINO: That's all.

MR. RICHARDS: That's all I have.

* * *

FURTHER THE DEPONENT SAITH NOT

C E R T I F I C A T E

THE STATE OF TEXAS
COUNTY OF McLENNAN

I, L. E. Gaskey, Court Reporter at Waco, Texas, do hereby certify that the aforegoing pages numbered 1 through 44 inclusive, contain a true and correct transcription of the stenographic notes made by me on the 26th day of November, 1973, on the testimony of TOM P. MOORE, JR. held at the McLennan County Courthouse, Waco, Texas to the best of my skill and ability.

I further certify that I am not of counsel nor am I related to the parties in the action, nor am I in anywise interested in the result of said cause.

WITNESS MY HAND this 27th day of November, 1973.

_____
L.E. Gaskey
Official Court Reporter

* * *

EXHIBIT TO MOORE DEPOSITION OMITTED BY AGREEMENT OF PARTIES. FORMERLY PAGES 1607 - 1611.

Answers and deposition of WILLIAM B. OLIVER, III, a Witness in the above-styled cause, called by the Plaintiffs, which deposition was taken on the 8th day of November, 1973, at the Ridgewood Motor Hotel, Beaumont, Texas, pursuant to the following stipulation:

APPEARANCES:

HON. DAVID R. RICHARDS, Attorney at Law, 600 West 7th Street, Austin, Texas 78701, appearing in behalf of the Plaintiffs.

HON. ELIZABETH B. LEVATINO and HON. TOM BLACK, Assistant Attorneys General of Texas, Supreme Court Building, Austin, Texas, appearing in behalf of the Defendants.

CHARLOTTE SMITH, Court Reporter.

IN ATTENDANCE:

HON. PIKE POWERS.

STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and between Counsel for the parties hereto that the deposition of the Witness herein-named may be taken without the necessity of Notice for said deposition, and that said deposition is taken with the same force and effect as though all formalities of law had been complied with.

IT IS FURTHER AGREED that any and all objections to the questions and/or answers will be made upon the taking of this deposition.

IT IS FURTHER AGREED that the signature of the witness herein is waived, and this deposition may be returned into Court and used upon the trial of this cause with the same force and effect as if the applicable Federal Rules of Civil Procedure with reference to the return hereof had been fully complied with; all formalities regarding the return of said deposition into Court are waived and same may be returned by filing same with the Clerk of the District Court of the United States, the District and Division heretofore set forth.

* * * * * * *

WILLIAM B. OLIVER

having heretofore been duly sworn, testified as follows, to-wit:

EXAMINATION BY MR. RICHARDS:

Q. Would you give us your full name, please?

A. William Boyd Oliver, III.

Q. Where do you live, Bill?

A. 1488 Louisiana Street, Beaumont, Texas

Q. How old are you?

A. Jefferson County. Thirty-six years old.

Q. And how are you employed?

A. I am a pastor or minister of Plymouth United Church of Christ.

Q. Where is that located?

A. 1460 Gladys Street in Beaumont

Q. All right. What's your education background?

A. I finished high school, East Chambers High School, Winnie, Texas; Bachelor of Science, University of Houston in Houston and a Bachelor of Divinity from Perkins School of Theology at SMU.

Q. When did you get your BS degree?

A. Fifty-nine - August of '59.

Q. And your Bachelor of Divinity?

A. In '63.

Q. Winnie, that's W-I-N-N-I-E, isn't it?

A. Correct.

Q. And Chambers County is the adjoining County to Jefferson, is that correct?

A. That's correct. Winnie is on the eastern border almost, therefore placing it near Jefferson County and the County seat.

Q. Your father I believe was a Methodist minister in Chambers County, or in Winnie, is that correct?

A. That's correct. He served in the Methodist Church there and then later at High Island which is in Galveston County, just south of Winnie.

Q. When did you come back to this area or take up full-time residence in Jefferson County, or Beaumont?

A. Without break in August of 1963.

Q. Is that when you came to this church?

A. That's correct.

Q. Your wife's name is ---

A. Loretta.

Q. All right. Did she grow up here?

A. She was born and raised - always lived in Beaumont.

Q. Bill, since this is being taken by

deposition and the people who read it can't see you, you are white, is that correct? Caucasian?

A. Yes, sir.

Q. Your wife is --

A. Black

Q. --Black. Is she employed?

A. Yes, she is; by the Economic Opportunity Commission of Southeast Texas.

Q. Does she have any political role to play in the affairs of Jefferson County?

A. She is a member of the County Democratic Executive Committee as Precinct Chairman of Voting Precinct 10.

Q. In regards to the church you serve, is it black, white, mixed - what's the pattern?

A. Plymouth Church is historically a Black church founded in 1918. It's still a Black church, though since 19 -- I was the first white member. Since '63 we have nearly always had one, two, or three white families who are members.

Q. Were you and your wife married in Texas?

A. Yes, we were. In Jefferson County at Plymouth Church.

Q. When?

A. October of '65, though my marriage license was issued out of Bexar County.

Q. Why was that?

A. Because the County Clerk in our County would not issue the license, since it was still-- the Miscegenation Statutes of the State were still operative at that time. It would have been a felony for us to be married. Also there's a Civil Statute relating to that too.

Q. But you're saying at least as late as '65 the County Clerk of Jefferson County would not issue you and your wife a marriage license, is that correct?

A. That's correct.

Q. Where did you get your marriage license issued?

A. Bexar County, Texas.

Q. Bill, without going too heavily into the matter, since your return to Jefferson County in '63, can you tell us the nature of your political involvement, if you have been associated with as campaign managers or other leadership with the campaigns, just summarize it for us, local and National or State level.

A. In the fall of '63 I was a Deputy Coordinator

for the Repeat-The-Poll-Tax-Drive with a door-to-door campaign to turn out the voters; I was the Assistant Director of Voter Registration campaign in the spring of '64 and campaign manager for a Legislative candidate - a Black Legislative candidate - Mr. Albert J. Price. In the fall of '64 I was Coordinator for door-to-door Get-Out-and-Vote-Drive in the National elections in the Johnson-Humphrey race against Goldwater. In the following year I coordinated NAACP voter registration drive. In '66 I assisted in voter registration drive and was campaign manager for a Black candidate for County Commissioner of Commissioner's Precinct No. 4. This was Elmo Willard's race against Ted Walker and Henry Miller. Also, there was a run-off in that race between Elmo Willard and Ted Walker in '66.

I participated in voter registration drives the following year. In '68 I worked as Coordinator in the Get-Out-The-Vote for the County on the Citizens for Humphrey-Muskie which was separate from the Democratic Party Get-Out-The-Vote effort in '68 where we set up separate headquarters and used our own computer lists

for walk lists for door-to-door workers.

I'm sorry. There were a couple of School Board races that come in there that I functioned basically as a campaign manager on.

In the spring of '68 as well, Elmo Willard ran for City Council, and I was campaign manager of his unsuccessful bid to be on the City Council.

Q. In Beaumont?

A. That's correct.

Q. What year was that?

A. Sixty-eight. The City Council elections in our City are on on years.

A. All right. Then--

Q. Then in 1972 I was campaign manager for a Legislative candidate, Albert J. Price, again. Following that I was on the McGovern staff at the Democratic Convention in Miami as a political liaison responsible for Alabama and Mississippi.

Q. Were you a Delegate to the National Convention?

A. No, my wife was an Alternate at Miami Beach. Then following the Convention, went on the State staff of the McGovern campaign in

Austin as Assistant to the State Coordiantor for Blacks. Our responsibility was the voter registration drive Statewide and then the Get-Out-To-Vote, primarily of Black voters.

Q. I may come back to some of those for more specifics later.

I would like, if you would, Bill, to give us a little bit of background in terms of Jefferson County and Beaumont as to the Civil Rights movement activity that has taken place since you've been here. Can you give us some of the highlights as you have seen them since '63 on those items?

A. In the fall of 1963 we had at the Church a college group of Blacks. The reason they were at Plymouth Church, which is cross-town from Lamar University, is that at that point in Lamar's history, Black's did not feel comfortable or were not invited into the religious centers on campus. So we had a Black student organization which met at the church cross-town. Growing out of that, they became concerned with the fact that the Southeast Texas State Fair in '63, the midway was closed to Black children. Black could buy tickets and go to the fair,

but the children could not ride on any of the rides.

Q. Who sponsored the Southeast Texas fair?

A. The YMBL.

Q. What does that mean ---

A. That's the Young Men's Business League--

Q. Of Beaumont?

A. --with a lease from the City.

Q. The City of Beaumont?

A. That's correct. Some of the adult citizens were concerned about it and the students picked up on that and said that they thought there ought to be a picket or something unless that policy was changed. After some negotiation with the City Council and later with the YMBL, on the night on which that picket was to occur, the midway was in fact opened for the first time to Black children.

Following that, the student group, growning out of their concern and to some extent their success with that effort, began to deal with the whole question of public accommodations. As you know this is prior to the passage of the '64 Civil Rights Bill.

Q. At that time what was the status in terms

of in this community, Beaumont, with respect to the availability of public accommodations to Blacks and Negroes?

A. Most all of the restaurants were closed to Blacks - restaurants and cafeterias in the City. Though there had been some effort prior to that, which I was not part of, with downtown lunch counters at Walgreens and what have you, all the major restaurants and cafeterias were closed; until in the spring of '64 there was a whole drive and effort on the part of students and adults in the Black community to open these restaurants. Because of that there were mass arrests, of students primarily, but some adults on trespass charges.

Q. Trespass charges growing out of attempts to get service in restaurants?

A. That's correct.

Q. Were you arrested in the course of that?

A. Yes, several times. I don't have the dates.

Q. Were these arrests by the City Police of the City of Beaumont?

A. Correct.

Q. As an outgrowth of those efforts was there any --

A. Yes, there was. Because of the pressure of arrests and the publicity related to that, and also because of the attitude of this community, the racial tension was such that many of the city fathers, and I use that generally, felt that Beaumont has always been potentially at least tense, if not an explosive situation because of the riots that Beaumont experienced in the '40's --

Q. Race riots?

A. -- Race riots in the '40's, that they needed to move to find some kind of compromise or solution to this problem. The Chamber of Commerce acted with what force and strength it had in trying to coerce and cajole the Beaumont Restaurant Association, and after repeated meetings finally got an agreement where all members of the Beaumont Restaurant Association would in fact open their establishments.

Q. This would have been in ---

A. This was prior to the summer of '64, so it preceded the '64 Civil Rights Bill. So what happened in Beaumont was that because of the arrests, because of the pressure, those restaurants finally opened.

This changed some following the kind of resolution, the spirit and impetus behind that movement related to public accommodations waned some in '64. In '65 it shifted to employment in a concentrated way and it began to address public employment. The '64 Civil Rights Bill at that point excluded governmental subdivisions such as County and City. So it became incumbent then upon the community to seek other remedies to deal with the racial discrimination in employment, both City and County. From meetings and negotiations between leadership and the Black community, it began with both the City and with Jefferson County, with the Commissioner's Court primarily, but ---

Q. Toward what end?

A. Fair employment practices. What that meant at that point in the Courthouse, I should say, even one Black employee, some visibility in the County Courthouse other than janitors. Because up until '65 we had no one.

Q. No Black employees?

A. No Black employees.

Q. At any levels other than just janitorial?

A. Other than menial. There was at least

willingness on the part of only one County official, the District Clerk, to hire a Black, but because of the attitude of the community and because of the pressure of the other people in the Courthouse, he felt he could not do so initially. Some of them said they would never do it.

In fact, the County Clerk, Fred Hill, to this date still has no Black employee in the County Clerk's office. It is quite understandable because his position was very clear at that point. He said that "Niggers ain't ready and they are immoral".

Q. Is he still the County Clerk?

A. He's still County Clerk. There is not a Black face in his office. Eventually in the latter part of '65 and in '66, the first Black employees appeared in the County Courthouse. In the District Clerk's office ---

Q. Is Beaumont the County seat?

A. Beaumont is the County seat.

Q. I didn't realize that. We'll come up with this with documentation here. There was a Civil Rights Commission hearing here in --

A. December of 1965.

Q. Did you have any relationship with the Commission at that stage?

A. No, I did not. A year later I became a member of the State Advisory Committee to the U.S. Commission on Civil Rights, but at that point I had no relationship. I testified at that open meeting. Maybe I should describe it that way. It was officially an open meeting of the Texas State Advisory Committee to the U. S. Commission on Civil Rights.

Q. Did that committee ultimately publish some report with respect to what they found in regards to Beaumont?

A. Yes, they did.

Q. We will clear this up with the report as one of our exhibits later, but can you just summarize?

A. Yeah, I'll be happy to do that. The hearing covered primarily three areas: school desegregation, what was called administration of justice, or what we might call now Police community relations, and, thirdly, employment patterns within this community, both public and private. Those were the areas covered.

At the hearings, testified both school

superintendents and myself on school desegregation and then there was some person from Port Arthur that testified about Port Arthur. I'm sorry, there were three superintendents because I think Doctor Clyde Gott from Port Arthur also testified.

Q. Spell Gott, I'm sure she doesn't have the spelling on Gott.

A. G-O-T-T.

Q. Clyde?

A. Clyde, right.

Q. Clyde Gott?

A. Right. Then in the area ---

Q. What were the findings, just generally?

A. The findings generally were that neither school district in Beaumont had made significant strides toward desegregation of public schools. At that point, South Park had not had a case. The Beaumont Independent School District was in fact under litigation regarding school desegregation.

Q. Let me stop you right here. As I get it, there are two basic school districts that are involved in Beaumont, is that correct?

A. That's correct.

Q. They are South Park --

A. --Independent School District and Beaumont Independent School District. Let's come back to the school districts.

Q. We'll come back to them.

A. Let's finish this. In the area of administration of justice, the findings were that there were still serious problems with the Beaumont City Police Department, though things had greatly improved with the Sheriff's Department in Jefferson County, almost to the extent there were very little if no complaints, but there were still some problems with the Beaumont Police Department.

At that point there were only two Black officers, one uniform and one plain clothesman, for the whole department in a city that's thirty percent Black.

That situation did not exist in Port Arthur where there were a few more Blacks on the department.

In the area of employment, in the public sector of City and County government, other subdivisions like the Mosquito Control District, Drainage District, what have you, again there

was a clear pattern of job discrimination. There were no Blacks in supervisory or administrative positions. In policy making divisions, Blacks were all at menial labor jobs. There were no Blacks present in the Courthouse.

In the area of private employment, there was considerable amount of testimony and findings that even in the major industries in this area there was still job discrimination problems in '65. I might add as a footnote to that, that is not a part of those findings, that there is litigation presently pending before the 5th Circuit on Goodyear, and there have been other cases of job discrimination before the Courts of this County to this date.

Q. Let's turn now to the status of school desegregation as you now see it in the County.

What about the Beaumont Independent School District?

A. The Beaumont Independent School District still maintains racially identifiable schools. There are approximately seven, I think, all-Black schools in a district that operates about twenty-two schools.

Q. You are saying that they remain a hundred

percent Black?

A. A hundred percent Black. In schools that were established for the education of Black children, schools that were for the de jure of racially segregated school systems, and those schools are still maintained to this date. The faculty desegregation in the Beaumont Independent School District still is not done on a racial basis of the entire district.

There is still, to some extent, an informal feeder school operation where students who fail to indicate that they want to go to some other school are automatically forwarded along racial lines from Elementary to Junior High to High School, if you know what a feeder school process thing is.

Q. We are aware, and will make it an exhibit that the Beaumont Independent School District has recently filed suit against HEW because HEW has made just these findings with respect to ---

A. Correct. There is a letter which HEW has sent to the Beaumont Independent School District outlining the ways in which they have failed to adequately desegregate their school system and to take appropriate legal

action to be in compliance with the law. The Beaumont Independent School District has filed a suit to prevent HEW from enforcing that.

(WHEREUPON, A CITY MAP WAS TENDERED TO THE COURT REPORTER, MARKED FOR IDENTIFICATION AS OLIVER-1, AND SAME APPEARS AT THE CONCLUSION OF THIS DEPOSITION).

Q. Bill, the reporter has marked as Oliver-1 a City Map of the City of Beaumont, and you had told me once about Black children still being bussed by the Beaumont District from the north part of the City all the way down to a Black high school. Do you recall telling me this?

A. Yes.

Q. Bill, without doing up our map too heavily here's a red pencil, just show me the area in which you were saying Black school children, Black high school children, were being bussed.

A. In this area which we refer to as Helbig Road.

Q. You have marked around Bennett Road, is that correct?

A. That is Bowen. This is generally Black.

Q. All right. Put a big "X" out beside it.

A. (Witness complying with counsel's request)

Q. Now, you are saying there is a pocket of Black families---

A. High school students are bussed from here--

Q. From where you have marked the "X" ---

A. ---to a Black high school here.

Q. Now, that's ---

A. Charlton-Pollard High School.

Q. Put a "A" down there by Charlton-Pollard.

A. (Witness complying).

Q. Now, that's an all-Black school --

A. That is correct.

Q. In the process ---

A. There's a high school in the same school district right here.

Q. Put a "B" there.

A. (Witness complying)

Q. What high school is that?

A. French High School.

Q. All right.

A. Same school district.

Q. You're saying even today in Beaumont, as I understand it, Black students are bussed past French High School all the way down to Charlton-Pollard, is that correct?

A. There is a white high school here.

Q. What is that?

A. That's Beaumont High School.

Q. Okay, Thank you.

A. I should add so that you might see this, the other school district runs this way around the City.

Q. Is there a similar pattern in South Park without going into any great detail, Bill?

A. Not in terms of bussing at all. There is a racially identifiable Black high school, one hundred percent Black, in South Park Independent School District. That's Hebert High School.

(WHEREUPON, A DOCUMENT WAS TENDERED TO THE COURT REPORTER, MARKED FOR IDENTIFICATION AS OLIVER-2, AND SAME APPEARS AT THE CONCLUSION OF THIS DEPOSITION.)

Q. Bill, this is from the Beaumont Enterprise. Oliver-2 is just simply a 1969 story relating to the issue of the segregation or desegregation of the South Park Independent School District. We will offer it at this time.

Glancing through the story, does that recall to your mind that at least those were

the issues that were stated in '69 ---

MRS. LEVATINO: David, we'll not object to the admission of this as far as that is a story which appeared in the Beaumont Enterprise, but we would object on the hearsay basis.

MR. RICHARDS: We have a stipulation you may have to try to retreat from -- We have a stipulation that they will be accepted, or we will have to argue it to the Court. But the original record in this case and the original stipulations entered into with Mr. Jaworski, among others, permitted the introduction of newspaper stories of this kind for all purposes including that they represented the expressions of those involved at the time on occasion. We will just leave it in the record like this and we can deal with it later.

Q. Bill, reading through the story on Oliver-2, as you know the situation in South Park today even, does that issue still remain? That is, the continued existence of all-Black schools and a resistance to breaking down the racial segregation that has historically existed?

A. Yes, I think so, with the following exceptions I think I can make to that.

The faculty ratio is established so that all schools are maintained with some variance, I assume a very small variance, of faculty ratio that's the same as the student enrollment, ratio of Black and white. There are still all-black schools in that school district. Hebert High School, Blanchette Elementary, I guess A. L. Price Elementary, I'm not sure which others.

But there are now significant numbers of Blacks at South Park High School that had been previously an all-white high school. There are all-Blacks at Odom Junior High School, at least over ninety percent if not all-Black.

There are now some Blacks at Forest Park, but that number is small as compared with South Park. To my knowledge there are still no whites at Hebert High School, although there have been in the past one or two out of an entire school enrollment of somewhere near a thousand.

Q. You will have to accept this from me: In 1956 there was on the Democratic Primary ballot

a referendum with respect to the preservation of segregation of the public school system in the State. Eighty-two percent of those voting in Jefferson County voted for maintenance of the segregated school system.

Based on your observations, what is your opinion as to the attitude of the white citizens of Jefferson County with respect to maintenance of segregation---

MRS. LEVATINO: David, are you going to introduce any vote totals on that?

MR. RICHARDS: Yes. It's a State report on Segregation. It will be one of our exhibits.

MRS. LEVATINO: I mean with regard to the percentage on the vote?

MR. RICHARDS: Yes. I have reference to "The Legal and Legislative Subcommittee of the Texas Advisory Committee on the Segregation of Public Schools." It's a State report.

MRS. LEVATINO: That has this part you---

MR. RICHARDS: Right. This is going to be one of our exhibits. I wasn't

going to make it an exhibit to this deposition.

Q. Keeping in mind that in '56 eighty-two percent of the citizens who voted in the primary voted for preservation of segregation, what is your opinion based on your experience and observation as to the attitude of this County today with respect to segregation? Is it still strong, weak, what is it?

A. I think it would be still strong in terms of opposition.

Q. Opposition to---

A. Total school desegregation. The language and the issues will have changed slightly so there's a kind of retreat to the next trench, if you will, in terms of what that now means. Where it meant maintenance of the dual school system at the time of that vote, it may mean now an attempt to maintain a freedom of choice system, as the present Beaumont lawsuit in fact attempts to do, and the effort on the part of some citizens in the South Park School District to organize a save-our-neighborhood-schools, signed petitions sent to the Congressman of this district---

Q. Your observation is that desire on the part of the white citizenry of this County is still to preserve segregation of the schools, is that right?

A. Correct. The vote totals might be slightly different because there are probably more registered Blacks now than there were at that period. But couched in contemporary language and where the contemporary issues are now drawn, I suspect that the matter would be pretty much the same.

Q. In that connection, to the extent that that eighty-two percent vote reflected a hostility toward Blacks and Black interests, what is your opinion as to whether that hostility on the part of the white community toward Black interests still remains in the County?

A. I think it still remains, and when you get into the political area, I think we can demonstrate that pretty clearly. One example that immediately comes to mind is the present hostility that exists between the white community and Black community concerning the street program in this City. The Black community is right now, at this very moment

in the process of securing recall petitions to recall the Mayor of the City because of his indifference to Black concerns, and it's around a simple matter of a street improvement program that on its face might not appear to be racial, but it happens the improvements are in an all-Black neighborhood, and the only Black Councilman made a motion and there was no second at Tuesday's City Council meeting; there was no effort on the part of any white to stand with him, even to get a vote on that issue.

Q. While we're at it, why don't you detour for a second. Again, we will have more detailed exhibits based upon census tract information, but can you just generally describe for us the area in which Black citizens--you might even do it on this map if it's convenient for you--reside in the Beaumont area, for example.

A. In Beaumont the Black concentration is in neighborhoods rather than as contrasted with Port Arthur, which is in this County.

In Port Arthur--let me do that first, before I turn to Beaumont--the Black concentration is all in one end of town, referred to as the West End in what sociologists would call

transitional neighborhoods. There's a line moving east through the City of Port Arthur, where neighborhoods are chaniging in racial composition from white to Black; whereas in Beaumont Blacks have been historically scattered by neighborhoods. These are used in terms of how people identify where they live in town and what-have-you. Like I reside in the North End; there's a Pear Orchard, there's a Hollywood Village area, there's a Cedar Street area.

Q. All Identifiable as Black pockets?

A. These are all-Black neighborhoods within the City, so there's not one single Black ghetto.

In the North End we're talking about, and once you see the census tracts you'll see the same thing, it's generally now from here (indicating)---

Q. Is that the canal; what is that?

A. This is Lucas Drive, this is generally marsh along the river, and if you use Magnolia east this is nearly a hundred percent Black now. There are some poor white families there, even more so than the '70 census--the '70 census is outdated already, as you might imagine, because of the transition.

Q. What is that on the east; what is this?

A. Brakes Bayou.

Q. Bayou, I see.

A. Really the river eventually, but this is all too low for habitation at the moment.

This is the far north end, and it comes down to Interstate 10 and this is still called North End, but it's the Gladys Street area, which is an old Black commercial, and in the '20's was a well-to-do Black Bourgeois neighborhood in a sense. It's not that now. It's run down and dilapidated. There are shotgun structures, many of which still do not have hot water. They are out of compliance with the minimum housing code, and the City is attempting to deal with that. There is a pocket of Blacks historically out here that I pointed to earlier in the Helbig Road area. There is also a brand new Black housing project going up, a hundred and fifty units, in that area.

Then from here there's an area of low income Blacks called Cedar Street that's here (indicating). It is surrounded by industrial development and the City on the east. Right downtown there's a heavy concentration

of Blacks in the Forsythe area, and there are some residents still in there of low income Blacks. There are apartments and row houses in what is called Hollywood Street area. It's here on this (indicating).

Q. Unless you mark up the map---

A. If I start marking the map, you'll just have a bunch of circles.

Q. Just point it out for us.

A. The South End is one of the oldest of the historically Black neighborhoods as well, and this is an all-Black ghetto in the sense that there are almost no white residents there.

Q. This is in the vicinity---

A. Mobil Oil is here, and Charlton-Pollard High School is still on the eastern side of that next to Mobil Oil. The other direction, Pear Orchard, and it's moving east, but this Southern Pacific track I guess--Maybe I better look at the map--One of the railroad tracks--I guess it's Southern Pacific--runs from there south of Washington Boulevard to Eleventh Street and there is another all-Black neighborhood referred to as Pear Orchard. That neighborhood would include housing in neighborhoods

north of there between Fourth and that same rail-road track.

Q. What about west of Interstate 10?

A. There are very little Black residents. There are a few scattered families in what we refer to as the West End of Beaumont. There are two pockets of small concentrations of Blacks. One is on Prutzman, and there are less than a hundred people total that we're talking about there.

Q. Let's trun to 1964 and the race for State Legislature for Al Price.

A. Before you do that, I would like to throw in something that we have not talked about. One of the major problems facing the Black citizens in this City is the business of health care and health care services. There have been several attempts to establish a hospital district to care for the indigent. In every case that vote has failed, and the great majority of people seeking indigent care in this City are Black. They are forced to travel to Galveston by car, by bus, what-have-you, to get medical care. This means women in labor, and so there have now been infants born on the

ferry. You're talking about a ferry-boat ride to get to Galveston Island. It seems to me that the reason that we don't have hospital care for the indigent is that there is a kind of attitude of indifference towards this problem. My own impression of that is that it is because the great number of indigent in this City are Black, or else they consider that the Blacks are the ones who are going to benefit from that, so why tax the total population to alleviate that problem. There is pre-natal care for the indigent pregnant mothers, but they still have to go to John Sealy Hospital in Galveston for the delivery.

Q. Are you ready to talk about 1964?

A. Yes.

Q. You have told us that you were the campaign manager for Al Price who ran for the Legislature in 1964. Based upon your information, was he the first black man to ever file for the Legislature, at least in this century?

A. The first Black citizen to run in a Democratic Primary.

Q. At least in this century?

A. That's correct.

Q. Who is Al Price? Tell me a little bit about him.

A. I think this is important for later when you look at the qualifications of the other candidates. Al Price grew up in Beaumont. His father was a prominent Black minister and Principal of Hebert High School until his death, and a prominent Black citizen in the community.

Al Price was a graduate of Morehouse College in Atlanta. He went into the Air Force as a Captain. He was a bomber pilot for eleven years. He returned to Jefferson County where he anticipated becoming one of the first Black airline pilots in the nation, and he returned in the late spring or early summer of 1963 and enrolled at Lamar as a special student, trying to fruitfully use his time prior to becoming a pilot. He became interested in community problems in that process, and worked in the voter registration drive. In January of 1964 he filed for the Legislature as the first Black candidate for the Legislature

He was running against an incumbent, Jimmie Weldon.

Q. Is it your testimony that as far as you know this was the first time a Black candidate had filed in the Democratic Primary for any office?

A. That is correct.

Q. As you recall, and I think you have told us that you were the campaign manager for Al Price in that race?

A. That's correct.

Q. If you can, tell us what was the reaction of the -- Was it a County-wide district?

A. That's correct, the district was a four-member district. The first reaction was a little surprised that a Black candidate would file in the first place. It was brand new, it had not happened before. The newspaper reaction, both the Beaumont Enterprise and Journal and the Port Arthur News, was generally open and friendly toward his candidacy in the sense of providing access for news conferences, providing initial announcements, being willing to sit down with the candidate and talk about his stand, where he was in terms of the issues. The

same thing was true of the electronic media, in this case the television stations at least. He filed against an incumbent, who was endorsed by the Committee on Political Education, or, COPE, in this County.

Q. COPE being the political arm of the AFL-CIO?

A. That's correct. Because of Mr. Price's issues and concern, a platform developed during that campaign, and at the time he interviewed with the Committee, he was treated friendly in the sense of being introduced at COPE meetings. There were no special invitations to attend any local Union functions. He did attend those that covered the whole labor council. They did in fact, however, endorse the incumbent.

Q. COPE, you're talking about?

A. Yes. In fact, we should say as early as then to the present, there have been no occasions when COPE has endorsed a Black candidate in the Democratic Primary for any office.

Q. What about invitations extended to Price by white organizations and groups?

A. Yes, the invitations extended to him were primarily limited to all-Black groups.

Q. Why is this?

A. All right. The whole business of community --You're talking about a County in which you really have a divided community history. Most organizations and otherwise in this County are either Black or white.

Q. How do you mean?

A. Well, the YMCA, for instance. There was a white Y and a Black Y. The Lions Club, Rotary Club, these are white groups. In the Black community there are sororities and fraternities. So in seeking to run for public office, the normal lines open to a candidate in terms of invitations to speak do not exist for a Black man in the same way they would for a white man. So that puts a burden on the candidate to spend an inordinate amount of money.

Q. In the case of Price in 1964, were invitations extended to him by these white groups?

A. There are two examples I am aware of other than the chance to appear before the COPE screening Committee, and those were church groups that he had a chance to speak before.

He did fill out a questionnaire to the League of Women Voters, but most of the invitations for speaking engagements were from all-Black groups.

Q. Were invitations forthcoming?

A. Oh, no, no invitations. He went wherever he could go.

Q. And you are saying that white organizations did not invite him to appear?

A. That is correct.

Q. I take it from what you have told us that Mr. Price's candidacy was unsuccessful?

A. That's correct. He got approximately one-third of the vote in 1964, which if you look at the voting patterns and boxes, he got primarily the white vote.

Q. You mean the Black vote?

A. Yes, the Black vote. I'm sorry. He did pick up some votes that ought to be noted in West Beaumont in boxes which, using some peoples' labels, would be conservative boxes. The other problem was that there was a great disparity between the two candidates. The incumbent was a high school graduate with some professional training as an electrician. He was

not particularly qualified as a public speaker, and in my judgment did rather poorly on those occasions where both candidates did appear, like COPE functions and on the television "Meet the Candidate." Whereas, Mr. Price came off as a rather confident speaker with a positive platform with some well developed issues, with the ability to address himself in a meaningful way. For instance, here is a man who was eminently more qualified than his opponent, whose program and platform had appealed to certain very large number of white residents in terms of their own economic and political self-interests. So if you tried to identify the single reason that the white people voted for the incumbent rather than Price, the vote has to be against him because he was Black.

Q. In 1966 Elmo Willard ran for County Commissioner in this County?

A. That's correct.

Q. Who is Elmo Willard?

A. He is an attorney. He's a graduate of Harvard University Law School, who has practiced primarily in the area of criminal law. He has been here since the middle '50's. He's a member

of the Jefferson County Bar Association, an officer in the Trial Lawyer's Association, and he chose in 1966 to run for County Commissioner in Precinct 4.

Q. And that was against?

A. Ted Walker who was the incumbent.

Q. What role did you play?

A. I was campaign manager for the Willard campaign. There was a third person in that race also.

Q. I believe Willard got into the run-off against Walker?

A. That's correct. There was a run-off election between Elmo Willard and Ted Walker.

Q. Were you active in the run-off primary?

A. I was, yes.

Q. I take it that Walker won?

A. Yes, the incumbent.

Q. During the course of the run-off primary, did you observe or have an opportunity to observe any utilization of racial issues by Ted Walker or at least those persons---

A. I would like to answer that if I might.

Q. Sure. Please do.

A. The first instance that I would consider

using a racial technique and slur occurred during the first primary. During the first primary there was a hand bill used. I mean, a small printed piece of campaign literature, passed by hand and issued at the polls by a person handing out what we in this County refer to as COPE cards or slate cards. These candidates are worthy of support, and it lists them, although COPE did not endorse in that Commissioner's race. In the predominantly white labor boxes in Mid-County, the person assigned the task of passing that COPE endorsement card to voters, also handed this other campaign paper from Ted Walker, and they were handed together, giving the impression that this was the position of organized labor as well.

Q. On the COPE card, COPE did not endorse---

A. There was no mention of the Commissioner's race on that card.

Q. And then the people got a second piece of paper?

A. That's correct.

Q. And what was that?

A. It was a small printed, cheaply printed paper that included a statement "Do you want minorities taking over your Courthouse? They are going to be block voting", words to that effect.

Q. You actually observed this being passed out at the polls in the first primary?

A. That's correct. I observed it by the happenstance of having gone by to see how the campaign was coming.

Q. Then you said there were other instances and you---

A. In the second primary there was a sound truck used by Ted Walker in generally the South Park portion of the City.

Q. The white portions?

A. The white portions, yes. It's an area around his home. We're talking about this neighborhood generally in here (indicating).

Q. On the map that is something south of---

A. Washington Boulevard and east of Avenue C.

Q. His use of the sound truck, was this to encourage white voters in that neighborhood to turn out and vote?

A. In the course of the announcement made over

the sound truck, it indicated that minorities or Negroes were voting heavily over in Pear Orchard and they better turn out and vote.

Q. Encouraging the white voters to vote?

A. Because of the heavy Black turnout.

Q. And this was used in the second primary with Walker?

A. Yes.

Q. I'm assuming that Elmo Willard was defeated by Walker?

A. Yes. And in terms of that vote pattern, more than in the Price race in '64, that race was drawn along racial lines.

Q. Willard getting the Black vote?

A. Willard getting almost ninety-nine percent of the Black vote and Walker getting all of the white vote. There was very little exception to that. Even where Price had picked up some white votes in West Beaumont, Willard got less than Price.

Q. Do I recall that there was an incident in the first primary or in the run-off where white Deputy Sheriffs armed appeared at Black polling places?

A. Yes.

Q. Which was that, the run-off or the first primary, do you know?

A. I'm not certain. We can document it I think.

Q. Tell us about the incident, and at least how it occurred in the Black community?

A. Let me see what happened first. Ted Walker made the decision to have deputies at an all-Black polling place at Hebert High School.

Q. White deputies?

A. White Deputy Sheriffs armed with side arms that were visible. The two polling places--it was Blanchette Elementary and Hebert High School.

Q. Was this viewed by you as intimidation of the Black voters?

A. Yes. The County Democratic Chairman was frightened about the fact that it had occurred. He called the FBI about the matter.

Q. That brings us through the summer of 1966. I take it that we have never successfully--No Black candidate has been successful in the Democratic primary through the primaries of '66. What was the effect---

A. There haven't been any successes through

any primaries up to today.

Q. I take it that Willard was the only Black candidate on the Democratic Primary ballot in 1966, is that correct?

A. Right.

Q. And no Black candidates sought office in 1970 I take it in the Democratic Primary?

A. That's correct.

Q. In the meantime, Al Price is a pilot for American Airlines?

A. That's right. After 1964 he went to work temporarily with the Veteran's Administration, and then NASA, and then was hired as one of the first Black airline pilots in the Nation, and he is at this time.

Q. With Will Smith's death, I believe Al Price decided to make another stab at the Legislature, is that correct?

A. That's correct.

Q. And that turned out to be a six-man race?

A. A six-man race.

Q. Mr. Powers who is with us here was in that race and ultimately did win?

A. That's correct.

Q. What was your role in the Al Price race

of 1972?

A. I was campaign manager for Al Price.

Q. Did Price run a reasonably well-financed campaign?

A. Yes. As a matter of fact, we still have some debts related to that campaign.

Q. But it was an adequately financed race?

A. It was.

Q. Was it a seriously run race on his part?

A. Yes.

(WHEREUPON, A RECESS WAS TAKEN, AFTER WHICH TIME PROCEEDINGS RESUMED AS FOLLOWS).

Q. Bill, the reporter has marked here as Oliver-3 a Xerox of the election returns in the Legislative race, Democratic Primary race, of 1972. This exhibit-3 is what we deem to be the election returns by precinct of the 1972 Democratic Primary involving the race we spoke of. Is that right?

A. Yes, that's correct.

Q. First, I take it, how did Al Price do?

A. Al Price came in third in a field of six.

Q. He did not make the run-off?

A. He did not make the run-off.

Q. Was there a COPE endorsement in the race in the first go-around?

A. No, there was not a COPE endorsement in the normal sense of that word. What the Committee on Political Education did was say there are three candidates in a field of six whom they considered to be qualified in representing generally their viewpoint. Those three were Jerry Hanks, Phil Richey and Al Price.

Q. It did not include Mr. Powers?

A. No, it did not, at that point.

Q. As you view the election, how did Mr. Price fair in terms of--where did his vote come from and how did he fair in the white boxes?

A. Well, the great majority of Al Price's vote was from Black voters.

If you examine the voting patterns in this County, historical and in this race, and if you look at the demography of voting precincts, you will discover that there are relatively few all-Black boxes. There are many, many boxes which are racially mixed boxes because of the historical lines, the migration and what-have-you.

Q. Are there any boxes that you can identify---

A. Yes, there are. Carver School, Box 12.

Q. That's in Beaumont?

A. That's in Beaumont.

Q. That's all-Black?

A. All-Black. Al Price got four hundred and eighty-one votes.

Q. Pardon me. We have the exhibit in evidence. If you will just identify the boxes for us.

A. All right. Box 18, Hebert High School. Box 39, Blanchette School, Elementary School in Beaumont. In Port Arthur you can identify as an all-Black box, Box 58, Washington-Carver School. Box 59, Lincoln High School. And you could say Wheatley School, Box 34.

Q. The exhibit will speak for itself, but are you saying that in those boxes Price ran overwhelmingly, that is, eighty to ninety percent?

A. That's correct. And if you want to compare that then with how he does in terms of the white boxes---

Q. Well, I'm thinking specifically---

A. Would you like me to do that? There is a way I can get at that.

Q. All right.

A. In terms of Mid-County totals, and this

represents almost all white, there are a few scattered Blacks here and there in the Mid-County vote, but it is a predominantly white area.

Q. Are they actually listed in Mid-County boxes on this exhibit?

A. Yes, they are. They are separated out, and there is a total for that Mid-County area.

Q. What area is that in terms of towns?

A. Port Neches, Nederland, Groves is included in that, around the airport and so forth.

Q. How would you characterize that area?

A. That area generally?

Q. Politically, yes.

A. That area is an area that is generally controlled by organized labor interests in terms of its past voting habit and in terms of political ideology that is prominent, although there are other strains in that neighborhood, in those neighborhoods.

Q. But these are basically white boxes?

A. White boxes, and most of these are generally considered labor boxes.

Q. How did Price do there?

A. Price got three hundred and fifty-nine votes out of what appears to me to be - I have not

added it - but ten thousand votes. He got three hundred votes.

Q. He ran sixth in that race?

A. Certainly sixth, and that again is from opponents who ran very little campaigns. One, for instance, Tom Combs, in terms of Mid-County did not appear at the COPE Committee screening sessions, even seeking their endorsement. We are talking about a Lamar student in this case, Combs, who did not spend a great deal of money. He ran considerably better, just simply because he is white and was on the ballot.

Q. Are you saying -- How do you interpret the voting in the Mid-County area, for example, in the Price race; that is, the relatively inconsequential vote he got there?

A. Yes.

Q. Can you interpret that for us? What is the explanation for it?

A. Yes, I think so. Though we spent in that campaign a great deal of money, there was exposure, there was attendance at labor meetings, there was at least - in terms of the formal central committee, there was a recognition of what he stood for ideologically, what his

qualifications were, he was worthy of support, and that was their official position. So on almost any issue that one would identify - there was no incumbent - there was no other endorsed COPE candidate in terms of an endorsement any different than what he received -- The only issue that would stand out in terms of the vote in those white boxes is his race.

Q. Your conclusion is or what you are saying is that one example of what the Mid-County voting boxes reflect in that race in your judgment is that the votes that were cast against Price were on racial grounds, is that correct? Is that what you're saying to me?

A. That's right, that he received no votes when he would have because of every other reason except for race and, therefore, he gets no votes because of race.

Q. You're saying as I understand it that his stance on issues was such that would have normally appealed to the voters in the MId-County area?

A. That's correct, yes.

Q. And that his relatively inconsequential or poor, disastrous preformance there --

A. Three percent or less than five percent.

Q. -- is in your judgment attributable to race?

A. Yes, it is, as it has been in every other race in which a Black candidate has run.

Q. I suppose that there were other white boxes across the County where Price faired poorly, also attributable to race?

A. Yes, that's true. The difficulty with defining some of those boxes is that most of those boxes have Black voters in them.

Q. As you see it, Bill, based upon your experience in the County, working in politics, can a Black or a Black-oriented candidate win the Democratic Primary nomination for the Texas Legislature in this multi-member district or any multi-member district race in this County?

A. I don't think there is any conceivable way that he could do so.

Q. On what do you base that other than experience?

A. Other than experience? Well, it is still related to experience. The fact that no Black candidate in a Democratic Primary has ever been able to secure a significant percentage.

I'm not talking about half. I mean a significant percentage of white vote in this County. Whether they are running for J.P. as Charles Freeman did in Port Arthur, or whether he's running for County Commissioner as Elmo Willard did, or whether he's running for the Legislature as Al Price has done twice, or whether he is running for County Commissioner in another part of the County as Collis Cannon did in '72. In no example has a Black candidate in the Democratic Primary been able to pull a significant portion of the white vote. I mean, that's a fact I guess. There are a lot of things related to that. One, there is an added burden of expense placed on a Black candidate in a multi-member district as opposed to a single-member district, for instance. In this particular circumstance of a multi-member district, a Black candidate has defined ways to communicate to a part of his constituency within that district that there are no easy or normal lines of communication or lines that are available to a white candidate.

Q. What are you saying? Be specific.

A. All right. In terms of -- We mentioned

awhile ago organization, civic groups. As long as civic groups within the County remain predominantly or all-white so that when people get together to talk politics or social issues, they are doing so in an all-white context or an all-Black context and there is no cross-communications of any significant amount, then it is incumbent upon a Black candidate to find the means to communicate to that part of his constituency if he's seeking office. And it means that he must spend an inordinate amount of money as opposed to a white candidate to simply communicate. That's one kind of thing.

In a multi-member district if it is drawn like this one is, it means that every candidate has a double amount of newspaper publicity.

Q. Why are you saying that?

A. He's got to advertise in the Port Arthur News as well as the Beaumont Enterprise. Whereas if you did not have a district quite that size, it might be a little different. The same thing is true of radio. In terms of the TV market, the Port Arthur television station also covers this market. It is a single market in that regard, but that is not true with radio and it

is not necessarily true with newspaper advertising. Those are two sizeable cost items.

Q. But those affect any candidate, Black or white.

A. That's correct, but the difficulty that the Black candidate faces in that regard is that he does not have available to him the access of other kinds of communication in terms of groups and the way people cluster and meet. What we have in terms of the ethos - using a sociological term - of this County is that we still have a rural southern community though we have a layer of industrialization over the top of it. The basic lifestyle of the community, I think as is differentiated from other communities, is that it is a very southern community, and rural southern in that sense. That handicaps a Black candidate in that regard. The other handicap is the great sense of despair and apathy that the Black community generally has towards politics, and we eluded to that earlier with the feeling, you know, Blacks have not only no candidate that has won, but we have no real significant in-put to the extent that there is no responsiveness generally

on the part of public officials, elected officials, because we can't win.

Q. Would one of the factors that operate I suppose in a multi-member district in your view I suppose be, of course, one, this district is still predominantly white?

A. Yes, it is.

Q. And I take it from what you have said to us then that based on past races and past experiences that there remains at least sufficient racial hostility in terms of the white voter to make him resistant to vote for a Black?

A. That's correct. There is a strong racial hostility as far as voting for a Black candidate. You know, I should pick up on what one might consider as the exception to that: The fact that there is a Black City Councilman now in the City of Beaumont. But if you look at the fact that a Black was elected to the City Council in Beaumont and examine what occured at the time of the election, I think that one understands how that exception to what I consider the rule occured.

You have an example here in which a Black was elected by a primarily white group of people

to be a candidate. He appeared on a slate designed by whites who were running against another group of whites and who felt some need to have some support out of the Black community, and felt that the only way to get that was to have a Black candidate on their slate.

Even in the one exception to the rule in the sense of a Black winning an election, you have a situation where the Black himself was not selected by his own community, but rather by the white community to be their candidate. He has expressed the fact that he has to modify his views or soften his accountability to the Black community in order to stay in office. And when he no longer does that, as he feels that he is now more responsible and accountable to his own community, he feels he must resign and no longer seek election. So he will not run for re-election because he cannot be re-elected in his judgment because he now senses the need to be accountable to the Black community.

Q. His name by the way?

A. Calvin Williams.

MR. BLACK: We're going to make

an objection to that testimony as to the mental processes of the Black member of the City Council as being hearsay, and it is not within the knowledge of this witness in any possible way.

MR. RICHARDS: Well, the fact is that Mr. Williams has expressed that to both of us, but --

MR. BLACK: I object to counsel making that remark too.

MR. RICHARDS: All right. We'll let it stand for what it is. Your objection is noted, and let me put that much in the record.

Q. The matters that you have expressed presently, most recently, Mr. Oliver, with respect to Mr. Williams' announced intentions not to seek re-election, are those based on statements made by Williams?

A. Made by Williams directly to me and to others who were present.

MR. BLACK: We have the same objection to that.

Q. Bill, in terms of the Republican activity in this County, I take it that in recent years

there have been Republican Primaries held, is that right?

A. That's correct.

Q. Is there any significant participation in the Republican Primary?

A. No, I consider it no significant participation. There is a voter registration figure in this County of a hundred thousand plus, and there have been between three thousand and thirty-five hundred at the most, Republicans voting in the Republican Primary out of that entire ---

Q. Have they regularly fielded a Legislative slate or a ---

A. Not regularly. There have been one or two Legislative candidates, no successful candidates. There are no Republicans ---

Q. Any Republican elected officials in the County?

A. Out of the General Election, no.

Q. Someone who ran in the General Election as a Republican and was elected?

A. No. I assume that one of the things you are asking, and I'm picking up on your question, is whether there is an option in the minority

community of coelescing maybe with another group of voters, Republican in this case, in order to find some mechanism for having their will expressed in the public sector. And in this case, no, because if you put three thousand Republicans together with the Black vote in the County, you are still swamped. You would be no place. Even if they were willing and we could find common interests around which to coelesce, we would still be in the same position of losing every campaign.

Q. The Democratic Primary remains an effective determinant of all local races, is that correct?

A. That's correct, and we have a one-party County in that sense.

Q. Now, is it fair to say that based upon your testimony, that at least the COPE slate or the COPE endorsement is a principal force in the politics of Jefferson County in terms of success?

A. Yes, it has been. With some exceptions it has been tantamount to election. The first major exception in modern history has to do with the Sheriff's race in 1964.

Q. What about Pike?

A. I'll get to that in a minute.

Q. All right.

A. My version of that at least.

Q. I don't need a lot of history. I just want to know ---

A. There are only three examples, so it's easy enough to do.

Q. All right.

A. That COPE endorsement is so strong in this County, it's easy enough to list the exceptions.

First was the Sheriff's race in '64 in which they endorsed an incumbent who was presently under indictment. The COPE Committee was very divided and they almost didn't get out with an endorsement. In spite of that endorsement, the labor vote split heavily, with the Black vote going to the now incumbent Sheriff, the one that COPE did not endorse. He was successful and the incumbent was defeated. That was one example of the first loss of the COPE endorsed candidate in recent times.

Pike's race I guess is the one that I ought to turn to I guess. There was a COPE -- One of the COPE candidates that was recommended ---

Q. You mean Pike Powers?

A. Pike Powers.

Q. The '72 run-off?

A. The '72 Legislative race, Place 2. Jerry Hanks who was in the run-off with Pike Powers ---

Q. Is Hanks the one who has subsequently been indicted for conspiracy to murder Terry Doyle?

A. Yes, that's my understanding.

Q. That was Pike's opponent?

A. That's correct. Though he was one of the three recommended by that COPE Committee, there was a great deal of division on that COPE Committee regarding support for Jerry Hanks because many of them were aware of activities which they considered inappropriate for a Legislator, and considered him emminently unqulaified to serve, and, therefore, a significant amount of the labor vote in my judgment went to Pike Powers, whom they condisered more qualified than Jerry Hanks.

Q. Are there other significant exceptions that you know of? You don't have to remember them all.

A. They had some difficulty in the Legislative

race - the first primary was Terry Doyle, Jerry Hanks, Nick Lamson.

Q. Some years ago?

A. Yes, and they finally resolved it, but their initial endorsement, they went with Jerry Hanks and Terry Doyle later won. The way in which he did that in fact was getting local Union Support. Organized labor is still a very significant political force in this County. And in spite of the fact that he didn't get the overall endorsement, Terry Doyle was able to in fact pull in some of the Oil, Chemical and Atomic Workers Locals, which was the major bulk ---

Q. In the OCAW, Oil, Chemical, and Atomic Workers, is that the major labor force in the County?

A. Yes, it is.

Q. You have told us I think that there has never been a Black endorsed candidate by COPE, is that correct?

A. That is correct, but they have had sufficient opportunity, even in races in which they did not have incumbents, races in which ---

Q. Al Price I guess actively sought the COPE

endorsement?

A. Yes, and so did Collis Cannon in the County Commissioner's race in '72, so did Elmo Willard in the County Commissioner race, and so did Charles Freeman, Jr. in the Justice of the Peace race.

Q. Bill, have there been occasions -- I take it that you have worked periodically in voter registration efforts.

A. Yes, and in some years was the City Coordinator for effects in voter registration. Let me say why, just as a little bit of background.

Q. Sure.

A. It is extremely important, given the circumstances and the racial attitudes of this County, to work inordinately it seems to me in order to involve Blacks in the political process, in spite of the fact that it has been almost hopeless and is hopeless in terms of the Legislative race, but, you know, maybe the Courts eventually will provide some remedy to this. But given that fact, we have worked every year to register voters. That means spending money, collecting funds in order to do

that, putting out door-to-door people to encourage people to vote ---

Q. Registering voters in the Black community?

A. In the Black communtiy.

Q. Why is that effort required in your view?

A. Because of the hopelessness of the situation, because of the hostility of the white community, and because of the need - if you're going to have any effect upon the political decisions that effect the daily lives of Black people in this County - you've got to maximize whatever votes you've got. The Black community represents no significant economic force other than purchasing power in this County. What is available to them in this County in the terms of the whole process of decision making is the use of sheer numbers. You know, we do have thirty percent of the population in the County. Therefore, it is important that the one resource that that community has toward having any self-determination is through the ballot box. For that to happen you've got to get people registered so that they can vote, and what you are doing is swimming upstream, because there is a feeling of despair and hopelessness that you

really can't make any difference. That's why there is the need to go into voter registration drives, efforts to get them out to vote.

Needless to say in most of the cases in terms of get out to vote, in many cases we're not talking about races where there is a Black candidate, but we're talking about so that the Black populace participates in the electoral process.

Q. Have you encountered any resistance from time to time in cooperation with the County tax officials with respect to register Black voters?

A. Yes, of course. One example of this is an exhibit we've got where finally we requested some action by the Justice Department, and FBI agents were actually sent to the Courthouse to overlook the registration process. Following that the tax assessor-collector did in fact then deputize members of the Black community to register voters.

Q. The reporter has marked Oliver-4 a copy of a wire to the County tax assessor which refers to a Mr. Oliver at the NAACP voter registration office. That is you, I take it?

A. Yes.

Q. And that is the circumstances surrounding which you have just testified about the difficulty of securing deputy registrars from the County tax assessor?

A.. That's right. Though I don't have the documentation, I might add that Jefferson County was - following the passage of the Voting Rights Act, there were certain southern States and certain Counties within other southern States that were looked at by Federal Registrars in terms of their procedures. Jefferson County was one of those Counties where Federal Registrars observed the registration process because of the difficulties we had, I assume that that can be looked up and checked into, the activity of the Justice Department following the 1965 Voting Rights Act.

Q. Just one or two wrap-up questions. As you see it has the at large Legislative District as you have observed in the decades you have been here - has it produced Legislators who were responsive to, properly responsive to the needs and interests of the Black community?

A. No, and there is no reason that it should have. If the primary issue around which a

candidate gets elected is a matter of race, then why respond to the minority.

Q. The losers?

A. The losers.

MR. RICHARDS: I guess that's all I have. I pass the witness.

EXAMINATION BY MS. LEVATINO:

Q. We met earlier, but I am Ms. Levatino with the Attorney General's office and, of course, we are representing the defendants in this case.

Mr. Oliver, you have taklked about a number of problems in the Beaumont - generally Jefferson County and specifically the Beaumont City area, which you have indicated, aside from your political views on it, you indicated that there are such things as problems with housing, schools, employment, the County tax assessor not registering people to vote, things like that, In these areas aside from the political things that you have talked about, single-member districts wouldn't resolve any of those problems, would they?

A. Yes, I think they are related in terms of

an isometric relationship of solving problems one-to-one. That may be true in some cases, but one of the problems with a multi-member district is that it compounds the hopelessness on the part of the people about the availability of the political process as a remedy for problems which they face. So there is a drop-out on the political process if that process does not respond in any way to ones participation. And if there is some way to show to that community that one can begin to make decisions that effect your life through the political process, then there is participation at all levels. So it would occur -- You know, there would be participation in the City Council elections, school boards, bond issues, what-have-you. An example of the despair in this community was the recent Constitutional elections yesterday. I don't have the returns with me, but if you will look at the participation of Black voters in the County, you will find that it is almost non-existent.

Q. What was the participation of the white voters in that race?

A. If you look at the ratio, you will find

that there was a greater participation of white voters on that issue. Twenty thousand total votes were cast in the County.

Q. Of the issues that we have talked about which you consider very significant problems in this area, you say that they would tend to participate more for a political solution? In other words, you view most of these issues as solvable politically as opposed to practically?

A. You know, again, as I just said to you, they are not simple isometric ---

Q. I'm saying, was that your testimony?

A. It is my testimony that they are related, although not isometrically. They are related in a sense.

Q. Okay. You spoke for awhile about the campaign or the election that was held for Precinct 4 County Commissioner's Court. Do you still have that map out there, David, that was introduced? I believe it was Oliver Exhibit-1. Would you indicate so that the court reporter can get it the general area covered by Precinct 4, County Commissioner's Precinct?

A. Yes. What is in front of me is a map of

the City of Beaumont. The County Commissioner's Precinct 4 includes more than the City of Beaumont, but I will indicate that portion of Beaumont that is included.

Q. Okay.

A. You are generally talking about a line that follows Railroad Avenue up to College, and out College until you come to Interstate 10. It then moves north to take in two voting precincts that are all-white in well-to-do middle class neighborhoods.

Q. Just tell me physically where ---

A. It goes along Interstate 10 to Calder and out Calder to Major Drive which is in Amelia. You go south on Major Drive to Brooks Road, take Brooks Road west to the County line, and it is south of that line that I just described down into Mid-County, including part of Nederland-Port Neches.

Q. Would you say generally then that for the County Commissioner's Precinct, their population is equally divided?

A. In terms of population, the four Commissioner's Preicncts of Jefferson County are fairly equal.

Q. And this area here in Beaumont City that

you described earlier that is in Precinct 4 as you have just described it, there are pockets of Black neighborhoods down here?

A. That's correct.

Q. Referring to your earlier testimony, isn't this Pear ---

A. The Pear Orchard area.

Q. The Pear Orchard area, which is a relatively substantial Negro area within at least the Beaumont part of Precinct 4, is that correct?

A. That is one large Black neighborhood. It does not represent half of the Black vote in this City. It's less than that.

Q. Well, no. I'm just talking about within that area of the precinct.

A. Yes.

Q. In that election I believe you said that Mr. Willard was running against an incumbent named Walker, is that correct?

A. That's correct.

Q. And Mr. Walker had the COPE endorsement?

A. No, ma'am, he did not. There was no COPE endorsement in that County Commissioner's race.

Q. There was no COPE endorsement. Do you recall what from your recollection - what the

vote was with Mr. Walker and Mr. Willard, what the numbers were there generally, a ballpark figure?

A. A ballpark figure was something like - and we're talking about the run-off election now, the second Democratic Primary in June of '66. It was something like three thousand---

Q. In other words, in the first primary there was a third candidate, and Mr. Willard did defeat the third candidate?

A. That's correct.

Q. And I assume form your earlier testimony that he came in second to Mr. Walker, and they were in a run-off?

A. That's correct. Mr. Willard got approximately one-third of the vote. It was three thousand plus to six thousand plus.

Q. Do you recall in that race in '66 generally what the voter turnout was for that Precinct?

A. For that Commissioner Precinct?

Q. Right.

A. In the first Democratic Primary, which is what -- It is the first place we would compare it, the voter turnout was greater than the

percentage of turnout across the entire County. There was a higher Black turnout significantly and there was also a higher white turnout than there was across the County, attributable to the fact that a Black man was running.

MR. BLACK: We're going to ask him to quit arguing. We understand that he's an advocate in this case, but---

MR. RICHARDS: If you don't think that's fair---

MR. BLACK: We are just asking him to respond to the questions.

MR. RICHARDS: All right.

A. I thought I did. I'm sorry.

Q. This was the first Primary you're talking about?

A. Yes, ma'am.

Q. What about the second Primary or the run-off?

A. There was a highter turnout in that Commissioner's Precinct than anywhere else in the County, and that was attributable to the fact that there is a run-off race in that Precinct that is a local race.

Q. What was the percentage of white and Black

voter turnout?

A. The percentage?

MR. RICHARDS: If you know, by the way.

Q. Yes, this is all based upon what you know. I'm not asking for specific numbers, but I'm saying do you generally know---

A. I do not have that percentage figure, but I am saying that it was higher than the County percentage, which I do know for a fact.

Q. That is that---

A. It is also high in relationship to historical turnouts in primaries. It is lower than the turnout in a General election, but in that particular race and in that Precinct it is not a great deal below. It is so much above the normal turnout in primaries that it is kind of mind-boggling in the sense that so many more participated.

Q. We're talking about the Black turnout.

A. Correct.

Q. What would be the normal Black turnout in a Legislative Democratic Primary race?

A. In which there is no Black candidate?

Q. Yes.

A. The turnout is something like twenty-five to thirty percent.

Q. You're talking about---

A. Registered voters, Black turnout, about eighteen percent Statewide.

Q. I'm just talking about Jefferson County now. What was the Black voter turnout in Mr. Price's 1972 race?

A. Higher than usual for a Primary election.

Q. Could you give us a ballpark figure?

A. No.

Q. Would it be somewhere around twenty-two to twenty-five percent?

A. Of Black registered voters?

Q. Yes.

A. Yes, I think so at least.

Q. And that is higher than the normal?

A. Yes. In every case where a Black candidate runs, the turnout is greater.

Q. In the Black Precincts?

A. And also the white Precincts, which I think is significant.

Q. You have talked about the COPE endorsements. Are there any Black or other political types of organizations in this County?

A. No Black political organizations on a continuing basis County-wide. There have been some efforts at having some neighborhood voters leagues, and only one of those has had any longevity. And it's in Pear Orchard, but it has concentrated primarily on local matters.

Q. So there would be no Black group which would engage in some type of endorsing or slate cards, putting out slate cards, or have there been any---

A. None with any longevity.

Q. Let me finish my question. Have there been any in the 1968, 1970 or 1972 races?

A. There have been some efforts to put together short-term committees, Black groups, relative to those races that did put out information about candidates and how to vote and how to use the machine and who they felt worthy of support, yes.

Q. All right. In the '72 race, let's take the first Primary which Mr. Price was in. Were slate cards furnished by any of these non-longevity groups, as you term them?

A. No slate cards. There were sample ballots which explained the use of the voting machines

and the candidates recommended.

Q. In other words, they did recommend on those sample ballots the candidate?

A. Yes.

Q. Was Mr. Price recommended?

A. Yes.

Q. What about the second race, the run-off, either the---

A. To my knowledge there were no ballots put out that I am aware of in the run-off. There were also no Black candidates in the run-off.

Q. So there really is no attempt by the Blacks in this community to organize themselves, to put up a candidate or to specifically endorse candidates, white or Black, other than what you have just previously mentioned?

A. No, what I said to you--and why I used the word longevity--there have been no successful efforts to have a continuing political organization. Blacks have attempted to function through the Democratic Party unsuccessfully. At times of elections there have been efforts to draw together what existing Black groups there are so that there might be some consensus about candidates worthy of support.

Q. But this generally has not happened?

A. Well, no, it has happened in the sense that the information regarding the candidates gets out. Sample ballots have been put out in elections where there are Black candidates.

Q. In other words, you would have had about three elections where this happened: two of Mr. Price and one of Mr. Willard?

A. One of Mr. Price, two Willards. Freeman from Port Arthur and Cannon in Beaumont.

Q. So this is the only time when there was an organization by the Blacks?

A. To put out ballots.

Q. Okay. Also, in this regard, do any of the Black groups through the churches--You mentioned that some churches had invited---

A. They were white.

Q. Have any of the Black groups which are not politically oriented, such as your congregation, do they seek to either feel the candidate or screen any kind of candidates or invite white candidates to come and speak to them?

A. Yes, for instance, the one voter's league I mentioned to you. Although it concentrates

primarily on local things, local issues--and by that I mean the City School Board races or--They always invite all candidates who have filed for office, and in many cases white candidates show up seeking their support.

Q. But they do not then endorse anyone generally speaking?

A. Yes, they do in those local races.

Q. They do in the local races?

A. Yes. They do not always endorse, but they have a history of endorsing some candidates.

Q. You've talked about the COPE cards or slate cards. In your opinion--we were talking about a 1966 race earlier. Now, in 1970 or 1972 is it your opinion that the COPE cards, slate cards, continue to carry great weight in this County for their candidates that are listed on them? In other words, do people follow them pretty generally?

A. I think they are an effective campaign piece of literature for Union members. I base that judgment on the fact that it is still possible to examine election returns knowing where Union members reside and in which boxes they have numerical strength, and if you look

at the election returns in those boxes you will see that it corresponds regularly to the candidates endorsed on that card. That can be documented.

Q. You said that Mr. Price did not in '72 get the COPE endorsement.

A. That's right, he never has had it.

Q. And Mr. Powers did not get the COPE endorsement?

A. That's correct.

Q. Mr. Hanks, however, did get the COPE endorsement?

A. No, ma'am, he did not.

Q. Well, in the second Primary, didn't Mr. Hanks get the COPE endorsement?

A. It is my impression that they took no action, endorsed no one in that Primary. In any case, even if they had done so, the process of passing out the COPE cards doesn't occur in the second Primary because that COPE card went when we were talking about a full slate of candidates. But it is my recollection that there was no endorsement in that race. I think I indicated why: That race was one of the two exceptions that I named and there was a great

deal of hostility toward Hanks.

Q. You expressed the feeling that the reason Mr. Price didn't get this was because he was Black. On what is that based?

A. Based on kind of a history of things. One, his prior race. He developed a platform, a stance, a program. He is also a Union member of the Pilot's Association. Here is a candidate among six, the only one of which is an active member of the local Union, one whose platform and program was compatible with the platform, program and ideology that was espoused by the labor movement, both Statewide and in this County; a candidate who was qualified; a candidate who had support from Black rank and file Union members, who had some representation on that screening committee; who if one removed the race question would in my judgment overwhelmingly would have received the support. The other thing is that during the period between '64 and '72 there had been a great deal of discussion, informal discussion, going on between leadership in the Black community and members of organized labor in this County, and on at least one occasion involved state

AFL-CIO leadership, discussing how we can get to a point where the COPE Committee might consider endorsing a Black. All of those discussions in which I was present, and that is more than five times at least in which we did this, the feeling - the position stated at that meeting was that there is no way that a local labor official in this County could recommend that they endorse a Black candidate, and then go back to his own rank and file and expect to be re-elected as an officer in the local Union.

Q. On the COPE Board that does the screening and endorsing, are there any Blacks?

A. There have been from two to six. It varies from year to year, but there have been some Blacks who sat on that Board and who would likely vote for a Black candidate to be endorsed, but never in majority.

Q. But they did not vote for Mr. Price?

A. Oh, no, I'm sure they did, but they are never in sufficient numbers to make any difference at all.

Q. How many people are on the Board?

A. I can't give you a specific number, but

it seems to me that the last time I was out -- When the candidates went in - I did not go in because I was not a candidate - that there were approximately thirty-some odd people in the room, and supposedly no one was in there but the Committee. I am not privy to their rules and regulations.

Q. You mentioned that Mr. Price's platform for the issues on which he developed his campaign were ones that would have appealed to the general labor group. Could you specify where Mr. Price's issues and Mr. Powers' issues differed?

A. I'm not sure that I can do that in any definitive way. Let me explain why this is true. Al did not run specifically against Pike Powers. Generally most of their issues -- In fact, they corresponded in relationship to support for the Superport, for insurance reform, some questions around industrial safety, there may have been some differences there where Price's view would have possibly been closer to organized labor than Mr. Powers'. We did not do an analysis. He was not the single opponent. There was not a real tight comparison

between Price and Powers.

Q. Would you generally say that Mr. Powers and Mr. Price had the same - generally the same feeling on the major issues that were issues in that particular campaign?

A. On many issues, yes, because those were the two major contenders in that race from the City of Beaumont. One difference I recall - and I'm sorry that I haven't looked back at that as well - was the support over the Speaker of the House. Price had already declared himself for Price Daniel, Jr., and Pike Powers did later, though he had not at that point.

Q. Pike Powers did in fact later support Price Daniel, Jr.?

A. Later, but at that point he said, no, I will not commit.

Q. But you generally think that if an issue came up before the Legislature - like the Superport - that Mr. Price and Mr. Powers' vote would have probably been the same on that?

A. On that issue I suspect it might.

Q. And it was obviously on the choosing of Price Daniel. I believe some of the other issues -- Were some of the other issues in the

campaign such things as Legislative reform with regard to campaign expenditures ---

A. The position that Mr. Price took was one stronger in favor of Legislative reform than Mr. Powers.

Q. In other words, Mr. Price and Mr. Powers were both in favor of Legislative reform as opposed to one of the candidates not wanting reform?

A. No, not in this County. If you will remember the electorate in this County, all six candidates would have been in favor of reform or they had no hope of doing anything.

Q. But they were both in favor of reform?

A. Yes, but the question then becomes in this arena who stands for how much reform, so it it is a matter of degree and not position. There is a difference.

Q. You have answered my question. That's fine.

A. But there is a difference.

Q. Did Mr. Price receive the endorsement of both the Beaumont paper and the Port Arthur paper?

A. No.

Q. He did not receive ---

A. He received no endorsement from the newspapers.

Q. He received no newspaper endorsements?

A. No.

Q. Do you have in Beaumont any Black representatives on the School District?

A. We now have one Black on the South Park Independent School Board.

Q. And these members of the School District run at large in that School District?

A. In that School District, that is correct.

Q. And you do have a Black City Councilman who is in fact Mayor Pro-Tem?

A. That's correct.

Q. You indicated that he ran on a slate the first time.

A. That's correct.

Q. Did he run for re-election?

A. Yes.

Q. Was he slated on that re-election race, or did he run as more of an independent?

A. No, in the re-election campaign he ran with the same people that he had run with before.

Q. As an endorsed slate by someone?

A. Not in the same fashion that it was done in the past, simply because of the way the campaign literature was put together.

Q. You mentioned also while we're on the City Council, a present issue that is before them with regard to the street improvements.

A. Yes.

Q. Is it true that there was a Capitol Improvements Bond voted awhile back?

A. Yes.

Q. In which there were Blacks sitting on the Committee that put together the capitol improvements, the program?

A. That is correct, in a very small minority.

Q. And they did ask that before they would endorse or recommend this, that some of that money be specifically earmarked for neighborhood streets in the poor Black areas?

A. Yes, and -- Can I finish my answer to that?

Q. Yes.

A. It was done in what the community considers an extremely devious way related to the Fourth Street improvements. It was listed in a kind of general fashion, and the decision now made was one without community

consent in any way which they consider significantly alters what was voted in the bond issue.

Q. But at this point is the City Council and has the City through its government -- Are they improving the streets in the Black neighborhood that generally were requested pursuant to the Capitol Improvements Program?

A. Not pursuant to the Capitol Improvements Program, other than what is in a lumped general area in terms of topping on streets. In that case what is occurring now is in my judgment an inordinate amount of that is going into an all-white area of town. And it was not spelled out in the CIP vote or program.

MR. RICHARDS: CIP doesn't mean anything.

A. Capitol Improvements Program.

Q. As to the general Black community, what issues do you feel, what Legislative issues do you feel are of significant importance to them?

A. The matter of the Constitutional revision, all of the things related to the adopting of a new Constitution because ---

Q. I'm talking about Legislative issues.

A. Well, this Legislature is going to meet as a Constitutional Convention; therefore, I assume it is a fairly clear Legislative issue, but ---

Q. Let me just say this: What issues in the 63rd Legislature were of significant importance to the Black community as opposed to the white community?

A. I don't know. I don't feel qualified to answer that question. I think there was concern over the criminal code, some sections of that possibly, the wage -- You know, you're asking me a question about Bills introduced in the Legislature which I don't have particular knowledge of at the moment.

Q. Maybe I can make my question clearer. We're talking about the kinds of things that a person elected from a multi-member district or a single-member district can actually influence, and what they run on.

Now, what issues, having been very involved in the Black community and seeing their problems -- You have said that your Legislative delegation is not responsive. In what way, on

what issues that were important to the Black community were they not responsive?

A. It's easier for me to answer you in terms of the general issues because I am not familiar with house bills.

Q. I'm not asking for house bills.

A. In terms of welfare reform in the State ---

Q. How were they not responsive is what I'm saying.

A. That's a question in terms of how they voted on specific bills, and I am not qualified to answer that.

Q. Okay. But if they were not responsive to the needs of the Blacks, you must have some idea of what they had to choose to make that statement, don't you?

A. Well, not necessarily.

Q. Would you explain.

A. All right, I'll explain. One, no bills were introduced by a Legislator from this County that I am aware of that significantly were related to the Black interests as opposed to white interests within this County. That's one example. That the -- Well ---

Q. If I gave you an example maybe.

A. Come on, give me an example.

Q. There was a bill introduced to repeal the long-standing part of the adoption code which says that Blacks and whites could not adopt people of the opposite race. Do you think this is of significance to people of the Black community, the repeal of that?

A. Sure.

Q. Did any of your delegation vote against that particular Legislation?

A. I do not know.

Q. Would you consider Legislation with regard to protection of the consumer of significant interest to the Black community?

A. Of course.

Q. Did any of your delegation vote against that?

A. I do not know. I know that this delegation generally is influenced by those concerns which are paramount to the AFL-CIO Legislative record, its listing of a voting record and, therefore, this delegation is under some obligation to show up with a good record if they expect to be re-elected. Many of those issues are in fact related to the Black community

because of that AFL-CIO program Statewide. It is drawn in such a way as to include some Black interests and, therefore, because their labor concern in fact vote favorably on some issues that affect Blacks, but not out of a concern to represent Black constituents.

Q. Is it true that neither Mr. Doyle nor Mr. Powers had the endorsement of labor?

A. I do not---

Q. I believe you have testified earlier---

A. No, I did not testify that Doyle did not in the '72 race. I said that in regard to the earlier race. Mr. Powers did not have it.

Q. Did not have?

A. Did not have.

Q. So he in the sense of having gotten their support, their avowed or open support in his race, he was elected without that, is that correct?

A. It is correct, though he sought it as he said in this room and voted in such a way as to hope to get it in the future in my judgment.

Q. But he was elected without it?

A. Yes, because there was no COPE endorsement.

Q. Getting back to the question of things that might be very significant to the Black population in Jefferson County, would you say that such Legislation as debt collection practices, vocational education, door-to-door solicitation, regulation of these things, bi-lingual programs - I won't go any further--adult education, that these types of things would in fact be of interest to the Black community?

A. Certainly those are of interest to the Black community, as are many other State issues.

Q. Would those also be of interest to the white community?

A. Yes, in some places, certainly.

Q. So would you say that a vote by a member of your delegation for some of these bills could be classified strictly as responding to a white community interest as opposed to a Black community interest?

A. They are votes which are responsive to their constituency, the people who elect them, and in this case it is primarily not the Black community.

Q. Well are you saying then that ---

MR. RICHARDS: What he is not saying is --- You're trying to --- The question is put so to ask is there some hostility between the Balck and white community surrounding those issues. Is that what you are ---

MS. LEVATINO: No, that's not what I was asking.

Q. In other words, you are saying that the constituency of a person elected from Jefferson County is strictly those people who voted for him?

A. No. What I am saying is the political accountability is normally in terms of people who help support you and elect you, and that is who you are first accountable to, though your constituency includes everybody else. If you intend to be re-elected, it is incumbent upon a politician to be responsive to the majority of his constituents.

Q. But these issues you would not classify as being either white or Black issues, but rather both?

A. No, I said given this constituency and the predominance of organized labor with a

Legislative program which includes a position on those issues, that under those circumstances it is incumbent upon a Legislator from this district to vote in a way that is responsive to that Legislative program, and included in that program are issues which are clearly of greater priority to the Black community than they are to the white community generally. And the voting record of the Legislators in this district is in response to the majority of their constituents, which in this case is controlled by organized labor.

Q. I'm not sure that you have answered my question, but I'll go on.

But you cannot point to either - any vote or statement or general issue in which the Jefferson County delegation has openly and has obviously voted or done something as a member of the Legislature that would be in opposition to an issue which was important to the Black community?

MR. RICHARDS: I take it you mean currently?

MS. LEVATINO: Yes, I mean current.

A. I assumed that you were. I don't recall

a vote at the moment. I don't think that lets them off the hook on that subject. To be accountable to an electorate also means one must confer with that community to some extent, to be open to their suggestions, and I know of no public meetings at which any of the three present Legislators attend in the Black community.

Q. Do you know of any public meetings that they have been invited to?

A. Yes.

Q. Would you state them please?

A. Carl Parker has been asked on three occasions to address a forum, a Legislative forum group that meets at my church. Let's see.

Q. Has Terry Doyle been invited to your church?

A. Not in that same thing.

Q. Has Terry Doyle been invited for discussion of Legislative issues or issues of importance to the Black community?

A. I don't know. I don't have knowledge of that. I know there have been meetings where other public officials have come where there was a blanket general invitation, and our

Legislators, the delegation including the Senator, are generally considered to be - to have no visibility in the Black community.

Q. Has Pike Powers been invited to any of these discussions since your church has done this in the past?

A. Not as a panel member. We have invited him to come out and meet with people, what-have-you.

Q. Has he ever done so?

A. Not yet.

Q. Not yet?

A. There is some anticipation that he may. He said, I'd like to do that. He has just never found it in his schedule to be able to do so.

Q. In your church or anywhere else that you are aware of, has there been any type of telegram or letter contact or telephone contact with the members of the Legislature concerning the issues they are considering or issues which the Black community would like them to consider?

A. None that I am aware of in recent years with the exception that there have been some conversations with me regarding the fact that

this lawsuit is in process, and there is some concern on the part of the Legislators about their districts ---

Q. So actually, in your statement that the Legislative delegation has not -- The comment that you made that the delegation is not open to the Black community stems basically from your knowledge in terms that they have not actively come to you?

A. Well, I would like to go back and say that the term "they are not open to me" is ---

Q. I don't mean you, personally.

A. To the Black community - is not quite what I said. I said that their political accountability is to the majority constituency of the multi-member districts and not to the minority.

Q. No, you did not.

MS. LEVATINO: Excuse me. Can you read that back? I believe he just said that there was a lack of openness---

MR. RICHARDS: A lack of visibility I think.

A. A lack of visibility in the Black community.

Q. But this visibility is because, as you

term it, in your opinion they have not gone out to the Black community, is that correct?

A. I think the way to understand what my testimony is on that is to compare it with other public officials, and then one can see what I am referring to. The Congressman from this district, for instance, is very often present at functions at functions within the Black Community, whether they are ribbon-cuttings, dedications, political forums, or what-have-you. He has a high degree of visibility. That's what I mean by visibility.

Q. But the Legislative delegation does not--

A. That's correct.

Q. -- show the same--

A. The same visibility, that's correct.

Q. You mentioned that in the County-wide race, the TV station does cover the whole County, if you were going to use TV for a Legislative race?

A. There are three television channels here, not counting the Cablevisions that are functioning, and all three of those stations, their market includes the entire County and more than the County.

Q. And there is a Beaumont paper and a Port

Arthur paper, is that correct?

A. In terms of dailies, that's correct.

Q. And the Beaumont paper is the morning paper?

A. Beaumont has a morning and an evening edition.

Q. So if you were going to cover a district in the County, say, Port Arthur, you would have to advertise in the Beaumont morning paper if you wanted the morning coverage?

A. No. If your district was only Port Arthur, you would not.

Q. I said if you wanted coverage in the morning paper, you would have to advertise--

A. I beg your pardon. That's correct.

Q. When you were managing the Price campaign in '72, was there a great deal of door-to-door solicitation?

A. Yes.

Q. By your volunteers?

A. Yes.

Q. Was there any door-to-door solicitation by the other candidates that you are aware of?

A. Not in the same neighborhoods.

Q. But there was door-to-door solicitation?

A. I don't know what they did.

Q. So you don't know. You are not saying that it wasn't in the Black neighborhood but in another neighborhood; you are saying that you don't know?

A. I'm saying that it was not in the Black and I have no knowledge about the white. It is my understanding that there was not. There was no need to do that.

Q. Do you recall generally what the first Primary - the spread between the top three candidates in the first Primary race in '72 was for the Legislative delegation?

A. Yes. Is it all right to refer back to the actual figures?

Q. Yes.

A. I can tell you that it's ninety-six something. Let me quote you exact figures. Ninety-six Ninety-six for Pike Powers; Jerry Hanks was eighty-eight forty-one; Al Price was seventy-two forty-one.

Q. I just asked for the top three. In that situation we're talking about generally the spread of about twenty-four hundred votes, right, between the highest and the lowest?

A. Right, about twenty-four hundred.

Q. Twenty-four hundred votes. Would you say then that Mr. Price could not get a significant part of the vote based upon those three figures or did not get a significant part of the vote based upon those three figures?

A. I fail to understand the import of your question. I don't understand the question.

Q. You stated earlier in your deposition that Mr. Price was unable to get a significant portion of the vote case in this election.

MR. RICHARDS: Of the white vote.

A. Of the white vote, and I used the example of Mid-County, he got about three percent of the white vote.

Q. Would you say that given a total spread of twenty-four hundred that in the total vote he did receive a significant portion of the total vote cast?

A. He received a proportion very close to the proportion of Black voters. If you took his percentage of the vote and looked at the percentage of Blacks who voted, you would find that that percentage was very close. So he received Black votes and not white votes.

MS. LEVANTINO: I believe that's all.

RE-EXAMINATION BY MR. RICHARDS:

Q. Bill, a couple of things have come to mind by those questions.

I take it that there are State agencies that have offices here in Jefferson County?

A. That's correct.

Q. I assume that in the nature of things that employment within those agencies, at least at times, has patronage overtones with respect to what State Legislators or State Senators may want?

A. We certainly get that impression.

Q. What is the pattern in terms of Black employment in State agencies in Jefferson County?

A. The pattern is that we don't seem to have anything like a ratio related to the population of Black employees. In fact, we have no Blacks in significant policy decisions or administrative positions. This district is bereft of that as opposed to other districts in the State. And a comparison could be made between State employees, racial composition in this area as opposed to any other -- not any

other, but most other areas of the State.

Q. You are saying that it is less here?

A. Yes.

Q. Black appointments?

A. Yes.

Q. What about appointments to State Boards or agencies, to your knowledge has there been any significant number of Blacks from Jefferson County appointed to any State Boards or agencies?

A. There is no Black, for instance, on the Board of Regents of Lamar University. I know of only one Black appointment--

Q. Lamar University is here in Jefferson County?

A. That's correct.

Q. Does Lamar University have a fairly substantial complement of Black students?

A. Not in ratio to the population, but--

Q. Would you say ten percent?

A. I don't know, but it is a significant group. It has been there since it was desegregated with some strife, and there is only one appointment that I am aware of that Lt. Governor Hobby made of Elmo Willard to a

Board, and I'm not even sure which Board it is. There is so little of that that I am unable to name you one or the person appointed.

Q. Is it fair to say that in terms of issues about which State Legislators might have some in-put, to wit, appointment of persons to State Boards and agencies, that the Black community has not participated in any significant manner in those appointments?

A. Certainly not in relationship to the percentage of the population.

Q. Would the same be true of employment of Blacks in State agencies in the area?

A. Yes. That is limited in my judgment to the whole business of political accountability. A person who holds public office is accountable to the people who help him get elected to that office.

Q. In terms of Black in-put into the Legislative process, based on your experience and observation, do you feel as if the Black community has any significant in-put in terms of the Legislative process as we know it as far as Legislators from this County?

A No, and the reason--one of the reasons

in my case that I am unaware of what specific bills were before the last Legislature is that it has become in my case, and I think generally for the Black community, it is not of a great deal of consequence what is before the Legislature because we don't have much way to influence what it does about those things.

Q. No way to crystallize issues that might be important to the Black community?

A. If we got---

Q. Is that right?

A. Yes, that's right, because even if we got mobilized around an issue, what would we do about it? We might try to influence a Black Legislator from another district, and we are not even his constituency. My feeling at least is that we wouldn't have a great deal of effect upon the present delegation.

Q. This issue of single-member districts or districts in which people are elected from districts in which they reside was before the voters of the City of Beaumont recently, was it not?

A. Yes, it was.

Q. In what form was it there?
A. It was there in terms of a charter revision.
Q. What was the proposition?
A. The proposition would have allowed for four Councilmen to be elected from wards and voted on by people who are residents of those wards.
Q. That was on the --
A. That was on the ballot, and that proposition failed and the vote along those lines was racial. The Black community voted for elections by wards.
Q And the white--
A. The white community voted to continue the present Charter which has four Councilmen and a Mayor, all elected at large, four of which must reside in a ward.
Q. Would you say on the basis of that at least that representation in individual districts is an issue which is of significant concern to the Black community of Jefferson County?
A. Yes, I would.
Q. Would you say on that issue that these Legislators demonstrated any interest in giving

you single-member districts in the last legislative session?
A. None whatsoever.
Q. Are you aware that efforts existed to bring single-member districts to Jefferson County?
A. Yes, from their pronouncements in the newspaper, not from their voting record which I have not perused.

MR. RICHARDS: I believe that's all.

(WHEREUPON THE DEPOSITION WAS CONCLUDED)

THE STATE OF TEXAS :
COUNTY OF JEFFERSON :

I, Charlotte Smith, a Notary Public in and for the County of Jefferson, State of Texas, do hereby certify that the facts as stated by me in the caption hereto are true; that the above and foregoing answers of the Witness, William B. Oliver, III to the questions propounded were made before me by the said witness, after having been first duly cautioned and sworn to testify to the truth, the whole truth, and nothing but the truth, and the same were thereafter reduced to typewriting under my direction by Pat Harrison: that the foregoing deposition is a full, true and correct transcript of the proceedings had at the time of the taking of said deposition.

I further certify that I am neither attorney nor counsel for, related to nor employed by, any of the parties to this action in which this deposition is taken, and further that I am not a relative or employee of any counsel employed by the parties hereto, and am not financially interested in the action.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the _____ day of November, 1973.

/s/ Charlotte Smith, Notary Public
My Commission Expires: June 1, 1975

WITNESS'S CERTIFICATE

THE STATE OF TEXAS:
COUNTY OF JEFFERSON:

I, WILLIAM B. OLIVER III, hereby certify that I have read the foregoing transcript of my testimony given in the foregoing numbered and styled case and that same is true and correct to the best of my knowledge and belief.

That all corrections have been made and initialed by me.

This 28th day of November, 1973.

/s/ William B. Oliver, III

SWORN TO AND SUBSCRIBED FORE ME, this 28th day of November, 1973.

/s/ Charlotte Smith
NOTARY PUBLIC

TO BE PAID BY

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

AUSTIN DIVISION

CURTIS GRAVES, ET AL) VS.) BEN BARNES, ET AL)	C.A. No. A-71-CA-142
DIANA REGESTER, ET AL) VS.) BOB BULLOCK, ET AL)	C.A. No. A-71-CA-143
JOHNNY MARRIOTT, ET AL) VS. PRESTON SMITH, ET AL)	C.A. No. A-71-CA-144
VAN HENRY ARCHER) VS.) PRESTON SMITH, ET AL)	C.A. No. A-71-CA-145
FRANK A. ESCALANTE,ET AL) VS.) MARK WHITE, ET AL)	C. A. No. A-73-CA-115
JAMES GASKIN, ET AL) VS.) MARK WHITE, ET AL)	C.A. No. A-73-CA-146